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THOMAS BASSET, to Print the  
Tryals of EDWARD FITZ-HARRIS, and  
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Fr. Pemberton.

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25

THE  
TRYAL  
AND  
CONDEMNATION  
OF  
Edw. Fitz-Harris, Esq;  
FOR  
HIGH-TREASON,

At the Barr of the Court of King's Bench, at *Westminster*, on *Thursday*  
the 9th of *June*, in *Trinity Term*, 1681.

AS ALSO THE  
TRYAL  
AND  
CONDEMNATION  
OF  
D<sup>r</sup> Oliver Plunket,

*Titular Primate of Ireland*, for *High-Treason*, at the Barr of the  
Court of King's Bench, the same Term.

L O N D O N,  
Printed for *Francis Tyton*, and *Thomas Bassett*, Booksellers in  
*Fleetstreet*. 1 6 8 1.

THE  
TRIAL

AND  
CONDEMNATION

OF

Edw. Fitz-Harris, Esq.

FOR

HIGHTREASON

At the Bar of the Court of King's Bench in Great Britain  
the 20th of June 1794

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AND

CONDEMNATION

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D. Oliver Plunket.

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Printed for Henry Dineen, at the Press of the  
Printer of the Court of King's Bench in Great Britain

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## Trinity Term 33 Car. 2. Regis.

On *Thursday* 9. *June* 1681. *Edward Fitz-Harris* was brought to the Barr of the Court of *Kings-Bench*; and the Court being late, proceeded thus.

Mr. *Thompson*:

**M**Y Lord, I moved you the other day that before Mr. *Fitz-Harris* Tryal, he might give such evidence as he had to give against Sir *John Arundel*, and Sir *Richard Beiling*, concerning the death of Sir *Edmundbury Godfrey*, before he be convicted of Treason; and we understood that it was the direction of the Court, That we might move it this morning before Conviction, that he might declare upon Oath here in Court what he knows of that matter against those Gentlemen: for after he is convicted, I believe it will be too late for us to think of it; Mr. *Godfrey* hath a great deal of reason to desire what I now move, that his Brothers Murderers may be prosecuted, and we hope all the favour that can be granted in such a Case, will be granted unto us; for there has been a design of late set on foot to make it be believed that Sir *Edmundbury Godfrey* murdered himself, notwithstanding that clear Evidence that hath been already given of this matter, and notwithstanding that several persons have been Convicted and attainted upon that Evidence. So that these Gentlemen think themselves obliged to prosecute this matter as far as they can, and begg of your Lordship, that what can be done for them may: And particularly, that he may perfect his Discovery against the two named at his last Examination before the Grand-Jury, and that his Examination about them may now be taken by the Court.

Lord *Ch. Justice*. Look you Mr. *Thompson*, That that you moved before, had some reason in it, that he might be examined, and give Evidence to a Grand-Jury, and we told you he should; but if there be never a Grand-Jury Sworn, yet who can he give Evidence to? would

B

you

you have us take his Examination, and afterwards give it in Evidence to the Grand-Jury?

Mr. *Thompson*. My Lord, I only say then 'tis our hard hap that he is not examined before a Grand-Jury.

Lord *Ch. Justice*. But do you think it is fit for you to move this now?

Mr. *Thompson*. My Lord, I understood it was permitted me by the Court the other day to move again, and I move by the direction of my Client, and I submit it to your Lordship.

Lord *Ch. Justice*. You know it cannot be granted: go on and swear the Jury.

*Fitz-Harris*. My Lord, I begg that my Wife and Solicitor may be by to help and assist my memory.

Lord *Ch. Justice*. Let your Wife be by you, if she please, and if you think 'tis any advantage to you, with all our hearts; If she will, let her go down to you.

*Cl. of Crown*. Cryer make an O yes, whoever can inform, &c.

Mr. *Att. General*. My Lord, I know not what the effect of this may be; if his Wife be instructed to instruct him, that ought not to be permitted, with submission; suppose she should come to prompt him (and for certain she is well Documentized) that your Lordship won't suffer.

Mr. *Ser. Jeff*. My Lord, she comes prepared with papers in her hand.

Mrs. *Fitz-Harris*. I won't shew them without my Lords permission.

Lord *Ch. Justice*. If she brings any papers that are drawn by Council, prepared for him, without doubt 'tis not to be allowed.

Mrs. *Fitz-Harris*. No, no, 'tis only my own little Memorandums.

Lord *Ch. Justice*. Whatsoever is written by her Husband, for help of his memory, in matter of Fact, let her do it.

*Fitz-Har*. My Lord, I humbly begg my Solicitor may be by me too.

Lord *Ch. Just*. We allow no Solicitors in Cases of High-Treason.

*Cl. of Crown*. Edward *Fitz-Harris*, hold up thy hand (which he did) those good men which thou shalt hear called, and personally appear, &c.

*Fitz-Harris*. My Lord, I desire they may be distinctly named as they are in the Pannel, that I may know how to make my Challenges.

Mr. *Sol. Gen*. My Lord, I must humbly offer it to your Lordships Consideration for the Precedents sake, whether any Person can assist the Prisoner as to matter of Fact?

Lord *Ch. Just*. Yes, and 'tis alwayes done to take notes for him, and to help his memory.

Mr. *Ser. Jefferies*. But my Lord I would acquaint your Lordship what is the thing we find in this Case, Here is a particular Note given into the Prisoner, of the Jury, pray be sure to challenge such and such, and don't challenge the rest: God-forbid but his memory should be help'd in matters of Fact, as is usual in these Cases, but no Instructions ought to be given him sure. And My Lord, the Example will go a great way, and therefore we are in your Lordships directions about this matter.

*Fitz-Harris*. My Lord, I hope 'tis but just, for I have had all the disadvantages in the World. I have been kept close Prisoner, and have not been permitted to have any one come to me, to help me in my preparation for my Tryal.

Mr.



Mr. *Att. Gen.* My Lord, I pray your Judgment in point of Law, I doubt not you will do the King right; as well as the Prisoner, I could not get a Copy of the Pannel, till last night about 4 a Clock; here is prepared a Copy with crosses and marks who he should challenge and who not, and truly, My Lord, since I had the Pannel upon looking over it, I do find the Sheriff hath returned three *Anabaptist* Preachers, and I know not how many Fanaticks, and since there are such Practices as we find in this Case, we doubt there may be more, and therefore I pray she may be removed.

Mrs. *Fitz-Harris.* I will not be removed.

*Fitz-Harris.* Is it fit or reasonable for me that I should stand here without any help?

Mr. *Att. Gen.* In case you be Guilty of this, you deserve no great favour.

Mrs. *Fitz-Harris.* Surely the Court will never suffer the Kings Council to take away a mans life at this rate.

Lord *Ch. Just.* Mrs. *Fitz-Harris,* You must give good words: And if you will not be modest, and civil, I promise you we will remove you presently.

Mrs. *Fitz-Harris.* If you do remove me, that is the worst you can do to me, what should I come here for without I may help my Husband?

Lord *Ch. Just.* If she do bring him instructions to except against such and such Jury men, she does misbehave herself, and must be removed.

Mr. *Att. Gen.* This Paper that we speak of is a Copy of the Pannel, and there are particular marks a great many.

Mr. *Sol. Gen.* A Woman hath a very great priviledge to protect her Husband, but I never yet knew that she had liberty to bring him instructions ready drawn.

Mrs. *Fitz-Harris.* My Lord, The Lady Marquess of *Winchester* did assist in the Case of my Lord *Stafford*, and took notes, and gave him what Papers she pleased.

Lord *Ch. Just.* Sure 'tis no such huge matter to let a man's Wife stand by him, if she will demean her self handsomely and fairly.

Mr. *Att. Gen.* It is not, if that were all; but when she comes with Papers instructed, and with particular directions, that is the assigning him Council in point of Fact.

Lord *Ch. Just.* Let her stand by her Husband, if she be quiet: But if she be troublesome, we shall soon remove her.

*Fitz-Harris.* 'Tis impossible I should make my defence without her.

Mr. *Ser. Jefferies.* I see it is a perfect formal Brief.

Mrs. *Fitz-Harris.* Must he have nothing to help himself?

*Fitz-Harris.* In short the Kings Council would take my life away, without letting me make my defence.

Mr. *Att. Gen.* I desire not to take away any Papers from him, if they be such as are permitted by Law.

Mr. *Sol. Gen.* My Lord, His Innocency must make his defence, and nothing else.

Mr. *Ser. Jeff.* My Lord, We are in your Lordships judgment, whether you will allow these Papers.

Lord Ch. *Just.* Let us see the Paper.

*Fitz-Harris.* My Lord, I will deliver them to my Wife again.

Lord Ch. *Just.* Let it be so.

Cl. of Crown. Call Sir *Will. Roberts* ( who did not appear.) Sir *Michael Heneage.*

Sir *Michael Heneage.* My Lord, I am so ill I cannot attend this Cause.

Lord Ch. *Just.* We cannot excuse you Sir *Michael*, if there be not enough besides, 'tis not in our power to excuse you.

Sir *Mich. Heneage.* I must suffer all things rather than lose my health.

Lord Ch. *Just.* Well stand by till the rest are called.

Cl. of Crown. Sir *Will. Gulston, Nicholas Rainton, Charles Umphrevile* (they did not appear.) *John Wildman.*

Mr. *Att. Gen.* My Lord, I desire he may be asked, before he be called to the Book, whether he be a Free-holder in *Middlesex.*

Major *Wildman.* I am a Prosecutor of this Person, for I was a Parliament man in the last Parliament, and I dare not appear, My Lord, for fear of being questioned for breach of the Priviledges of the Commons.

Mr. *Att. Gen.* My Lord, I pray he may answer that question, whether he be a Free-holder in *Middlesex?*

Major *Wildman.* I pray to be excused upon a very good reason; I was one of them that Voted the Impeachment against this man.

Mr. *Att. Gen.* Are you a Free-holder in *Middlesex*, upon your Oath?

Lord Ch. *Just.* Look you Major *Wildman*, you are returned upon a Pannel here, you have appeared, and your appearance is recorded; you must answer such Questions as are put to you, 'tis not in your power to deny.

Major *Wildman.* I begg the excuse of the Court, I cannot serve upon this Jury.

Lord Ch. *Just.* If you be no Free-holder the Law will excuse you.

Maj. *Wild.* Perhaps there may be some Estates in my name, that may be Free-holds, perhaps, I may be some Trustee or the like.

Mr. *Att. Gen.* Have you any Free-hold in your own right in *Middlesex?*

Major *Wild.* I don't know that I have; if it be in the right of another or as Trustee, I take not that to be a Free-hold.

Cl. of Crown. Call *Thomas Johnson.*

Mrs. *Fitz-Harris.* Let him be sworn, there is no exception against him.

Lord Ch. *Just.* Hold your peace, or you go out of Court if you talk again.

Mrs. *Fitz-Har.* I do not say any thing that is any harm, My Lord.

Cl. of Crown. Swear *Tho. Johnson*, you shall well and truly try, &c.

*Fitz-Harris.* My Lord, I pray the Clerk may not skip over the names as they are returned.

Cl. of Crown. Sir, I call every one as they are in the Pannel, and don't do me wrong.

Lord Ch. *Just.* It may be he does not Call them as they are mentioned and set down in the Pannel, for all have not appeared; but calls those only whose appearance is recorded.

Cl. of Crown. I have called them as they are here set down.

Lord Ch. *Just.* Well let them all be called for, may be they will appear now that did not appear before.

Cl.



Cl. of Crown. *Maximilian Beard.*

Mr. *Beard.* My Lord, I desire to be excused, I am very infirm and very ancient, Threescore and Fifteen years of age at least.

Lord Ch. *Just.* Why did the Sheriff return you, if you be of that age, you should be put out of the Free-holders book; but stay you are here Impannel'd, and have appear'd, if there be enough we will excuse you.

Mr. *Just. Jones.* He ought to have Witnesses of his age, and if he would not have appeared, he might have had a Writ of Priviledge for his discharge in regard of his age.

Lord Ch. *Just.* Well we will let him by, if there be enough besides we will spare him.

Cl. of Crown. *Isaac Honywood*, (he did not appear) *Lucy Knightley*, who (was Sworn.) *Henry Baker.*

Mr. *Att. Gen.* My Lord, I challenge him for the King.

*Fitz-Harris.* My Lord, why should he challenge him? I desire to know the Law, whether the 2 Foremen should not try the challenge, and not the Court or the Council.

Mr. *Ser. Maynard.* If the King challenge, he hath time to shew cause till the Pannel be gone through; the Law will have the minus suspecti, but yet if there want any, the King must shew good Cause. 1. Buldr. 84.

Cl. of Crown. *Edward Probyn.*

Mr. *Att. Gen.* I challenge him for the King.

Cl. of Crown. *Edward Wilford* (was Sworn)

*Fitz-Harris.* My Lord, Must not Mr. *Attorney* shew his cause now?

Lord Ch. *Just.* Look you Mr. *Fitz-Harris*, either side may take their exception to any man, but the cause need not be shewn till the Pannel is gone through, or the rest of the Jurors challenged.

Cl. of Crown. *John Kent* of *Stepney.*

Mr. *Kent.* My Lord, I am no Free-holder.

Lord Ch. *Just.* Then you cannot be sworn here upon this Jury.

Cl. of Crown. *John Wilmore.*

Mr. *Att. Gen.* We challenge him for the King.

*Fitz-Harris.* For what cause?

Mr. *Ser. Jeff.* We will shew you reasons hereafter.

Cl. of Crown. *Alexander Holey* (was Sworn) *Giles Shute.*

Mr. *Att. Gen.* Are you a Free-holder Sir?

Mr. *Shute.* No.

Mr. *Att. Gen.* Mr. *Whitaker* is got near him, and he tells him what he is to do, My Lord.

*Fitz-Harris.* Here is the Lieutenant of the Tower between me and him.

Mr. *Ser. Jeff.* But the Barr is no fit place for Mr. *Whitaker*, he is not yet called to the Barr.

Cl. of Crown. *Martin James.*

Mr. *Att. Gen.* Are you a Free-holder Sir?

Mr. *James.* Yes.

Mr. *Att. Gen.* Then Swear him. (which was done).

Cl. of Crown. Nathanael Grantham.

Mr. Att. Gen. Are you a Free-holder Sir?

Mr. Grantham. No.

Cl. of Crown. Henry Beiling.

Mr. Att. Gen. Are you a Free-holder Sir?

Mr. Beiling. Yes.

Mr. Fitz-Harris. Then I challenge him.

Cl. of Crown. Benjamin Denis.

Mr. Att. Gen. Is he a Free-holder?

Mr. Denis. No.

Mr. Att. Gen. My Lord, you see what practices here are, most of the Jury are no Free-holders.

Cl. of Crown. John Preston. (did not appear) John Viner of White-Chappel.

Mr. Att. Gen. He hath fetch'd them from all the Corners of the Town here, yet not all of them Free-holders neither.

Cl. of Crown. Swear Mr. Viner (which was done) William Withers (was Sworn) William Cleave (Sworn) Thomas Goff (Sworn) Abraham Graves.

Mr. Att. Gen. Ask him, is he a Free-holder?

Mr. Graves. No.

Cl. of Crown. Henry Jones.

Mr. Att. Gen. Is he a Free-holder?

Mr. Jones. No.

Cl. of Crown. Ralph Farr.

Mr. Att. Gen. Ask him the same Question.

Cryer. Are you a Free-holder Sir?

Mr. Farr. Yes.

Cl. of Crown. Then swear him (which was done) Samuel Freebody.

Mr. Att. Gen. Are you a Free-holder Sir?

Freebody. Yes.

Mr. Att. Gen. Then Swear him (which was done.)

Cl. of Crown. Gilbert Urwin of Covent-Garden (did not appear.) Edward Watts of Westminster.

Mr. Att. Gen. Are you a Free-holder Sir?

Watts. Yes.

Mr. Att. Gen. Then we challenge you for the King.

Mr. Att. Gen. John Bradshaw of Holborn (did not appear) Isaac Heath of Wapping (no Free-holder) Edward Hutchins of Westminster.

Mr. Att. Gen. We challenge him for the King.

Cl. of Crown. John Lockier of Westminster.

Mr. Att. Gen. Are you a Free-holder?

Mr. Lockier. Yes.

Mr. Att. Gen. Then Swear him.

Cl. of Crown. Count these. Thomas Johnson.

Cryer. One, &c.

## The Names of the 12 Sworn are these,

Thomas Johnson.  
 Lye Knightly.  
 Edward Wilford.  
 Alexander Holey.  
 Martin James.  
 John Viner.

Jury

William Withers.  
 William Cleave.  
 Thomas Goffe.  
 Ralph Farr.  
 Samuel Freebody and  
 John Lockier.

Cl. of Crown. Edward Fitz-Harris hold up thy hand. Gentlemen you that are Sworn look upon the Prisoner, and hearken to his Charge.

Fitz-Harris. My Lord, I humbly begg Pen, Ink and Paper.

Lord Ch. Just. Let him have Pen, Ink and Paper.

Cl. of Crown. You shall have them presently (which were given him.)

**H**E stands Indicted by the name of Edward Fitz-Harris, late of the Parish of St. Martin in the Fields, in the County of Middlesex, Gent. for that he as a false Traitor against the most Illustrious, and most excellent Prince our Sovereign Lord Charles the Second, by the grace of God King of England, Scotland, France and Ireland, his natural Lord, not having the fear of God in his Heart, nor weighing the duty of his Allegiance, but being moved and seduced by the Instigation of the Devil; the Love, and true, due, and natural obedience, which a true and Faithful Subject of our said Sovereign Lord the King, towards him our said Sovereign Lord the King, should and of right ought to bear, wholly withdrawing; and with all his might intending the Peace and common Tranquility within this Kingdom of England to disturb, and war and Rebellion against our said Sovereign Lord the King to stir up and move, and the Government of our said Sovereign Lord the King, within this Kingdom of England to subvert, and our said Sovereign Lord the King from the Title, Honour and Regal name of the Imperial Crown of his Kingdom of England to depose and deprive, and our said Sovereign Lord the King to death and final Destruction to bring, and put the 22. day of February in the 33. Year of the Reign of our Sovereign Lord Charles the Second, now King of England, &c. and divers other days and times, as well before as after at the Parish of St. Martin in the Fields in the County of Middlesex Traitorously did compass, imagin and intend the killing, Death, and final Destruction of our said Sovereign Lord the King, and the Ancient Government of this his Kingdom to change and alter and wholly to subvert, and him



our said Sovereign Lord the King that now is, from the Title Honour and Regal name of the Imperial Crown of his Kingdom of England to depose and deprive, and War and Rebellion against our said Sovereign Lord the King to stir up and Levy within this Kingdom of England. And his said wicked Treasons and Traiterous Compassings, Imaginations and purposes aforesaid to fulfil and perfect, be the said Edward Fitz-Harris, as a false Traitor, together with one Edmund Everard a Subject of our said Sovereign Lord the King, did then and there Traiterously assemble himself, meet and consult, and the same his Treasons and Traiterous Compassings, Imaginations and purposes then and there to the said Edmund Everard in the hearing of diverse other Subjects of our said Sovereign Lord the King, openly, Maliciously, Traiterously and advisedly speaking, did publish and declare; and to perswade and induce the said Edmund Everard to be aiding and assisting in his said Traiterous Compassings, Imaginations and purposes, be the said Edward Fitz-Harris as a false Traitor, Maliciously, advisedly and Traiterously to the said Edmund Everard a great Reward then and there did offer, and promise to procure; and for the farther Compleating of his Treasons aforesaid, and to incite the Subjects of our said Sovereign Lord the King as one man to rise, and open Rebellion and Insurrection within this Kingdom of England to raise against our said Sovereign Lord the King; and our said Sovereign Lord the King from the Title, Honour and Regal name of the Imperial Crown of his Kingdom of England to cast down and depose, be the said Edward Fitz-Harris as a false Traitor, a certain most wicked and Traiterous Libel, the Title of which is in these English words following, The true English man speaking plain English, Traiterously, Maliciously and advisedly, in writing to be made and expressed, did then and there cause, procure and publish. In which said Libel the said most wicked Treasons, and Traiterous Compassings, Imaginations and purposes aforesaid of him the said Edward Fitz-Harris, to excite and perswade the Subjects of our said Sovereign Lord the King of this Kingdom of England against our said Sovereign Lord the King to rise and Rebel, and our said Sovereign Lord the King from the Style, Honour, and Regal name of the Imperial Crown of this his Kingdom of England to deprive and depose, in writing are expressed and declared amongst other things as followeth: If James (meaning James Duke of York, the Brother of our said Sovereign Lord the King) be Conscious and Guilty, Ch<sup>r</sup> (meaning Charles the second now King of England) is so too, believe me (meaning himself the said Edward Fitz-Harris) both these (meaning our said Sovereign Lord the King, and the said James Duke of York) are Brethren in Iniquity, they (meaning our said Sovereign Lord the King and James Duke of York) are in confederacy with Pope and French, to introduce Popery and Arbitrary Government as their actions (meaning the actions of our said Sovereign Lord the King and James Duke of York) demonstrate. The Parliaments Magna Charta and Liberty of the Subject are as Heavy Yokes they'd as willingly cast off, for to make themselves (meaning our said Sovereign Lord the King and the said Duke of York) as absolute as their Brother of France. And if this can be proved to be their aim (meaning our said Sovereign Lord the King, and the aforesaid Duke of York) and main endeavour, why should not every true Britain be a Quaker thus far,

and

and let the English Spirit be up and move us (*meaning the Subjects of our said Sovereign Lord the King of this Kingdom of England*) all as one Man to self Defence? Nay and if need be to open action, and sling off these intolerable Riders? (*meaning our said Sovereign Lord the King and the said Duke of York*) And in another place in the said most wicked Traiterous Libel were contained amongst other things, these false Seditious and Traiterous sentences in these English words following. J and C. (*meaning the said Charles our Sovereign Lord the King, and his said Brother James Duke of York*) both Brethren in Iniquity, corrupt both in Root and Franch, as you (*meaning the Subjects of our said Sovereign Lord the King*) have seen they (*meaning our said Sovereign Lord the King and the said Duke of York*) study but to enslave you (*meaning the Subjects of our said Sovereign Lord the King*) to a Romish and French-like Yoke. Is it not plain? Have you (*meaning the Subjects of our said Sovereign Lord the King*) not Eyes, sense or Feeling? Where is that old English Noble Spirit? Are you (*meaning the Subjects of our said Sovereign Lord the King*) become French Asses to suffer any load to be laid upon you? And if you (*meaning the Subjects of our said Sovereign Lord the King*) can get no Remedy from this next Parliament, as certainly you (*meaning again the Subjects of our said Sovereign Lord the King*) will not; and that the K. (*meaning our said Sovereign Lord the King that now is*) repents not, complies not with their advice, then up all (*meaning the Subjects of our said Sovereign Lord the King*) as one man. O brave English men! Look to your own defence ere it be too late, rouse up your Spirits. And in another place in the said most wicked and Traiterous Libel are contained amongst other things, these false Seditious and Traiterous sentences in these English words following, to wit: I. (*meaning himself the said Edward Fitz-Harris*) will only add that as it is the undoubted right of Parliaments to make a Law against a Popish Successor, who would prove destructive to our Laws and Liberties; so it is their undoubted Right to dethrone any Possessor that follows evil Counsellors to the Destruction of our Government, (*Meaning the Government of this Kingdom of England.*) And in another place in the said Traiterous Libel are contained these English words following: Then let all (*meaning the Subjects of our said Sovereign Lord the King that now is*) be ready, then let the City of London stand by the Parliament with offers of any money for the maintaining of their Liberties and Religion in any extream way, if Parliamentary Courses be not complied with by the King; (*meaning our said Sovereign Lord the King*) against the Duty of his Allegiance, and against the Peace of our said Sovereign Lord the King, his Crown and Dignity, &c. And against the form of the Statute in this Case made and provided upon this Indictment.

Upon this Indictment he hath been arraigned, and thereunto hath pleaded Not Guilty; and for his Tryal hath put himself upon God and his Country, which Country you are, &c.

*Cryer* make proclamation. O yes if any one will give Evidence, &c.

*Mr. Heath.* May it please your Lordship, and you Gentlemen of the Jury, this is an Indictment of High-Treason against *Edward Fitz-Harris* the Prisoner at the Barr, and the Indictment sets forth, that the 21. of *February*, in the 33 Year of the King at *St. Martins* in the Fields, he did Compass and Imagin the death of the King, and to raise War and Rebellion within the Kingdom. And the Indictment does set forth, that for the Accomplishment of this, he did meet and assemble with one *Edmund Everard*, and several others, and did discover this his Traiterous purpose to the said *Everard*, and did perswade him to aid and assist therein; and offered him great rewards if he would so do. It further sets forth, That for the further perfecting of this Treasonable Imagination of the said *Edward Fitz-Harris*, he did frame and make a Treasonable Libel, and the Title of the Libel is *The true English-man speaking plain English*; and in that Treasonable Libel, are these Treasonable words contained, *If James be Guilty* (meaning the Duke of York) *Charles* (meaning the King) *is so too, &c.* And the several words, that have been read to you in this Indictment, are contained in the said Libel, which I shall not repeat. To this Indictment he hath pleaded, Not Guilty; if we prove it upon him you are to find him Guilty.

*Mr. Ser. Maynard.* May it please your Lordship, truly 'tis a sad thing to consider how many have been found Guilty of Plotting against the King, but none have gone so far as the Prisoner at the Barr; for they designed only his Death, but this Person would have carried on his Treasons by a means to Slander him while he was alive, and thereby to excite the people to such a Rebellion as you have heard. I shall add no further words, the thing is not aggravatable, 'tis so great an offence in it self; but we will call our Witnesses, and go to our proof.

*Mr. Attorney. General.* My Lord, Yesterday you had here the Primate of *Ireland*, who was found Guilty, for a Notable High-Treason in *Ireland*: you have now this day before you one of his Emissaries, who is come over into *England*, and who has here committed one of the most execrable Treasons that ever was brought into a Court of Justice; I must needs say that it will appear to all the Auditors this day, that here is the Highest improvement of the Popish Plot, and aggravated with such Circumstances as shew they have out done themselves in it. Hitherto those Cases that have been brought into judgment before you, have been the attempts upon the Life of the King, in Instances either of Shooting, Stabbing or Poysoning: I say hitherto they have gone no further than to Practise these things, and that by Popish hands, they have



have kept the Plot amongst themselves; but now they have gone one Step further, that is, by attempting to Poyson all the Protestants of *England*, as much as in them lyes, that they should by their own hands destroy one another, and their Lawful Prince, that is the Treason now before you, and I take it with submission, they can go no further. For 'tis impossible to arise to a Higher piece of malice and Villany than to set the peoples Hearts against their Prince, and to set them together by the Eares one against another. This we shall prove in the Course of our Evidence, to be the design of the Prisoner at the Barr. The general design hath been opened to you out of the Indictment, to kill and destroy the King, and to depose him from his Government; and we shall charge him with all those several Overt Acts, which I shall open to you: First several meetings to consult about this matter at *Grays-Inn* and several other places, which My Lord, I think there is no question to be made, but is an Overt-Act to make High-Treason. We shall go further, and shew that these designs he had to depose the King, and raise his people against him, he does declare openly to Mr. *Everard*, which is another Overt-Act within the new Statute. We shall My Lord, go further yet, and prove the great Rewards he hath offered to Mr. *Everard* for joyning with him, and being assisting to him in this affair, part in ready mony, and part in Annual Pension. And there your Lordship will find where the Spring is, from whence all these mischiefs arise, some foreign power, but the Papists, the Priests are at the bottom of it, they are the Persons that set him on, and these must draw in a great Person beyond Sea, who must reward this Gentlemen for being a Partner in this Plot. And we shall prove some mony paid in hand. But then My Lord, that which was the effect of this Consult, is the framing this pernicious Libel, for so give me leave to call it.

My Lord, the Indictment is modest, but when you come to hear the Libel it self read, you will find it so; and it was not prudence, that so Vile a thing should appear upon Record. And truly I believe in a Protestant Kingdom 'tis the first attempt of this Nature that ever was: For My Lord, it is to defame the whole Royal Family, 'tis to stain their Blood, and to make them Vile in the sight of the whole Kingdom, and of all Posterity. My Lord, this Libel in its particulars chargeth that most excellent and Innocent Person, our late and never to be forgotten Sovereign King *Charles* the first, to be the author of the Irish Rebellion; it charges our present Prince with the Exercise of Arbitrary Government, to be a Papist, to be a person that deprives his Subjects of all manner of Liberty, and Property; in express Terms it charges him with this, than which nothing can be more false, for there is none of his Subjects, I think, but must say that our most Gracious Prince, for the time he hath Reigned may vie with the best 20. years of any of his Predecessours for the pre-

erving the Liberty and Property of the people, for giving us peace and plenty all our time, for the permitting and securing to them the free current of the Law, and for securing their Civil and Religious Rights.

My Lord, when we have gone through the Evidence about the Contexture, and this Libel is read and produced, we shall prove the design of it, and how it was framed, and the Eyes of the world will be opened, and you will see that this was no intention, no Engine framed to trapan, or ensnare any private Person, or as it was secretly bruited abroad, to be put in such mens Pockets; but a piece of the greatest *Machivilian Policy* that ever was invented, and prepared for a publick Press, as a Catholick Poyson to infect all the Kings Subjects, and excite them one against another.

And we shall prove that this person in the several methods that I have open'd, hath proceeded to Accomplish his Traiterous designs of Dethroning the King: nay he hath said, 'tis resolved among them now that nothing else will do it, but the Poysoning the hearts of the people with hatred to their King, and malice against one another. And when we have proved the matter fully, through all the parts, we must leave it to the Jury, who I question not will do themselves, and all other Protestants right, as well as their Prince; We shall now go to our Evidence, and first we will call Mr. *Everard*; but My Lord, I would only first observe to you, that this Gentleman Mr. *Fitz-Harris*, and Mr. *Everard*, were both employed in the French Kings service, and there acquainted together: Mr. *Everard* came early off, and became a Protestant, leaving the French Kings service, because he found their several Plots and designs upon *England*. Then comes Mr. *Fitz-Harris* to him, and because he looked upon Mr. *Edverard*, not to be rewarded according to his merits, invites him over, with telling him those things that the Witness himself will tell you, back again to the French Interest.

*Then Mr. Everard was Sworn.*

*Fitz-Harris.* Look me in the face, Mr. *Everard*.

Mr. *Everard.* I will Sir.

Mr. *Att. Gen.* Will you acquaint My Lord, and the Jury how you came first acquainted with the Prisoner, and then tell the several passages between you.

Mr. *Sol. Gen.* Tell your whole knowledge of this matter.

Mr. *Everard.* My Lord, I came acquainted with Mr. *Fitz-Harris* beyond Seas, when we both were in the French Kings service, and upon Conference with him of late, especially about the beginning of *February* last, he renewed his acquaintance, though at several times before we had several discourses, whereof I did not take much notice; but in those meetings in *February* last, and in those Visits he paid me then, we had several discourses tending  
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to represent the disadvantages, and sufferings I sustained for adhering to the Protestant, and English Interest; and besides comparing in the other Ballance, what advantages I might expect if I would re-ingratiatate my self into their Interest.

Lord *Ch. Just.* What Interest?

Mr. *Everard.* The French, and the Popish Interest. And there was an Opportunity in my hands, wherein I might be servicable to my self and others; and he told me there were several persons amongst whom were some Parliament men, that did adhere to the French Interest, and gave an account to the French Ambassador of every daies proceedings; and as I was looked upon to be the Author of a kind of Pamphlet, that was called an answer to the Kings Declaration, concerning the Duke of *Monmouth*, therefore I should be fit to serve them, especially to make such another Pamphlet to reflect upon the King, and Alienate him from his people, and his people from him. Whereupon I told him I would do any thing that was for my true Interest, but I did conceive with my self, that that was none of it. He appointed a time when we should meet again, but I sent him a Note, I could not meet possibly that day, which was *Munday*, as I remember the 21. of *Februrary*: However he was impatient, and came to me and told me he would give me Heads and instructions tending to that Pamphlet I was to write, to Scandalize the King, and raise a Rebellion and Alienate the hearts of the Kingdom, and set the people together by the Ears. Upon this he gave me some heads by word of mouth: as soon as I parted from him, I met with one Mr. *Savile* of *Lincolns-Inn*, and as soon as I met with him I acquainted him with what was passed, and told him I wished rather than 10 £. I had met him sooner, half an hour before: why what is the occasion saies he? why said I, there is a person that hath had such and such discourse with me, and one of his main Errands amongst others, is for me to write a Scandalous Libel reflecting upon his Majesty, and the Government. And upon this I said, Mr. *Savile*, I shall not confer with him any further, unless I have some body by to witness what he saies, he speaks most commonly French, and sometimes English; and therefore it must be one who understands both the Tongues well. So we went into the City together that afternoon to one Mr. *Crow*, who is a silkman in *Queen-street*; said we Sir, you are a moderate impartial man, and understand French, we desire you will be present to over-hear some proposals that are made to me tending to set our Country together by the Ears, and he comes from a Popish party. Mr. *Crow* said he would be willing to undertake any thing to serve the Protestant English Interest, but he would not undertake to speak French so well as to be able to understand all nice passages, and words that might be proposed. And then Mr. *Savile* and I went to Mr. *Smith* a *Durham* Gentleman, and made him the same proposal, I had made to Mr. *Crow*, desiring him that he would come and over-hear our discourse, and I would place him in a fit place. Mr. *Smith* assented to the propositions, and said he would. Mr. *Smith* asked me what day and time we were to meet; I told him to morrow at 6 or 7 a Clock at night at my Chamber in *Graies-Inn*; but further he said we must have other witnesses, for one witness



would not be sufficient ; so we went to the *Exchange Coffee house*, and there we met with Sir *William Waller*, to whom we made the same proposal, that since we must have some that understood French and keep the thing secret, till it were time to have it come out, he would please to undertake it: Sir *William Waller* promised to come, but failed that first meeting, which was to be on the *Tuesday*; then we went to another French Merchant, who was proposed by Mr. *Savile*, but he was not within ; so then we must rely upon one witness for that meeting. Mr. *Fitz-Harris* was to meet me about 2 a Clock at my Chamber in *Graies-Inn*, where Mr. *Smith* and Mr. *Savile* were to meet likewise, and they came first to the Tavern just at the Corner of *Fullers Rents*, which hath a prospect into the Court : And from thence I saw Mr. *Fitz-Harris* in the Court pointing to another Gentleman that was with him, up to my Chamber, and he was walking suspiciously up and down. Then I went out of the Tavern, and came up to my Chamber, and after a little while Captain *Fitz-Harris* came up to my Room, I placed him in another Room, where my Wife was, and shut the door to whilst I sent word to Mr. *Smith* to come into the outer Room, and shut himself into my Closet. There was Mr. *Smith* in the Closet, and there was an hole or two for the purpose made through both the Planks of the boards, and the hanging, but the hangings hung over the hole that it might not be discerned by Mr. *Fitz-Harris*, and he could raise it and then see who was in the Room and hear their words ; for I placed my Chair towards the Closet which had an angle outwards, and now and then I did stand against the whole, and now and then fate to give Mr. *Smith* advantage, and to give Mr. *Fitz-Harris* no suspicion. When we were so placed Mr. *Fitz-Harris* asked me what I had done as to the thing proposed, this Libel that I was to draw up; I said I was busie, and had not been able to finish it, but here are some heads of it said I, and shewed him half a Dozen Lines drawn up together ; and when I had read them, Sir said I, is this your mind? yes said he, but I must add much more than this is to it. Then Mr. *Fitz-Harris* proceeded to give me further instructions ; and so repeated what instructions he had given me before, that the King and all the Royal Family must be traduced to be Popishly, and Arbitrarily inclined from the beginning, that King Charles the First especially had an hand in the Irish Rebellion, and that likewise King Charles the second, that now is, did countenance the same, as did appear by his promoting those very officers that were in the Irish Rebellion, *Fitz-Gerald*, *Fitz-Patrick*, and *Mont-Garrat*, which should be named in the Libel. Besides that, the Act made at the Kings coming in, forbidding any to call the King Papist, was meerly to stop peoples mouths that they should not call him a Papist, when he should incline to further Popery, and did intend by his actions so to do. And besides his adhering so closely to the Duke of *Torks* Interest, was to be another argument of it, his hindering the D. of *Tork* from coming to his Tryal, and to be proceeded against by the Parliament, and hindering the Officers that were put in by the D. of *Tork*, from being cast out : Another argument was because those Privy Counsellors and Justices of the Peace, that did adhere to the Prote-

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stant Interest were turned out of all places of Trust; and besides he said it did appear to the people consequently, that the King was Conscious to himself, that he was as Guilty as his brother, and was as much a Papist as his brother, and it was in the peoples power as well to depole a present Popish Possessor, as a Popish Successor, and that the people must be stirred up against him, and encouraged to blow the Trumpet, and especially that the City, and Common Council must be encouraged to stand by the Parliament; and seeing the King was such that no hopes was to be had of the Parliament at *Oxon*, they were bound to provide for themselves, and to advance some hundreds or thousands of pounds to the Parliament to settle the Protestant Religion without the King, if Parliamentary waies would not succeed. These were some of the instructions.

Mr. *Att. Gen.* Did he say any thing that day about a reward you should have?

Mr. *Everard.* He spake in the general about a Reward, but he spoke more fully to that the day after; he did not then come so much to particulars, then some part of those instructions I writ in my Table Book which is to be produced here, and others of them in another scrole of Paper. He then desired to know of me when the Scheme of this thing would be ready; said I, you may come to morrow; I will saies he, come about 6 or 7 a Clock in the Evening. In the mean time I writ a Letter to Sir *William Waller* in French, which I sent by a Porter, and therein I said, Sir you have missed a great opportunity of rendring a great service to the King, by not coming to see me when you were expected; for the person, the French Emiffary whom I spoke of to you, hath proposed very Scandalous Seditious things to be written, and therefore I desire you not to fail, as you tender the Kings Interest, to come to my Chamber at 6 a Clock at night. Sir *William Waller* received my Letter and came thither accordingly, I placed Sir *William Waller* in another Room, and I placed my own Chair at a narrow Table near the place where Sir *William Waller* was, and there through the Wain-scot and Hangings, we made a slit, whereby Sir *William Waller* might see into the next Room where Mr. *Fitz-Harris* and I sate; but before I placed him there I shewed Sir *William Waller* two Copies of the instructions for the Libel drawn up: said I, Sir, here are 2 Copies which are both the same, and I desire you to counter mark them, that you may know them again, and thereby see what alteration will be made; for here are no Blots now, and by that you will find the alteration. Sir *William Waller* while my back was turned, counter marked those Copies. I went into the next Room, and I had not been long there, but Mr. *Fitz-Harris* came in, I placed the Table near the Alcove, where Sir *William Waller* was within his hearing and seeing. Mr. *Fitz-Harris* asked me what I had done in the business: Sir said I, here are 2 Copies of it, pray will you see how you like it. So he took one and I took the other.

Mr. *Ser. Jeff.* My Lord I must interrupt this Gentleman, for I see they continue to give the Prisoner Papers.

*Fitz-Harris.* 'Tis only a Paper of the names of my Witneses.

Lord *Ch. Just.* Go on Sir.

Mr. *Everard.* My Lord, Captain *Fitz-Harris* did read one Copy of this

this Pamphlet and did amend it, he did add somethings and struck out other things, then said I is this Sir according to your liking? yes, saies he, but I must add something for it is not yet full enough; but saies he this must be fair Copied out; for 'tis not fit for the French Embassadors Confessor to read, who should present it to the Ambassador. Upon this I told him it should be done against the next day, but in the mean time I told him, Sir, these are very Treasonable things, and this a very Treasonable Project: oh, said he the more Treasonable the better, and that will do the effect better. What is that Sir said I? that is saies he, to set these people together by the Ears, and keep them clashing, and whilst they are so in clashing, and mistrusting one another, the French shall gain *Flunders*, and then said he, we shall make no bones to gain *England* too. But Sir said I, you spoke of some recompence for me, what shall I have for venturing this? why saies he after this Libel is delivered up, and that hath gotten you their Confidence that you are Trusty, then I will gain the French Confessor who is very shy, and may so well be, because one of the Confessors of an Ambassador hath been already trapp'd upon such an occasion. Therefore he is very wary, but he must have an assurance under your hand, which he shall have by this Libel; and then in a few daies you shall have 40 Guinies, and a monthly Pension, which shall be some thousand of Crowns, for my Master the French K. is not a niggard as to these things: the Spanish Ambassador is so very niggardly and Penurious a man, that he cannot keep a Table; but said he, you shall be well rewarded by the French King, and be not discouraged by the danger, for I am in as great danger as you. After some such instructions, and encouragements, that Mr. *Fitz-Harris* gave to go on in the work, he departed, and I cannot well call any thing to mind of more particulars, but upon Questions asked me perhaps I may. But then that time, or the next time, Captain *Fitz-Harris* gave me half a sheet of Paper, for I told him I may chance to forget part of your instructions, therefore pray write what is in your own mind, and in that Paper he writ down that it was in the peoples power to depose a Popish Possessor, as it was to oppose a Popish Successor, and certain other Treasonable heads; the half sheet of Paper is to be produced in Court, under his own hand, which he hath confessed besides other Treasonable instructions, that he gave me by word of mouth: but he at that time departed, and came the next day to have a Copy of the Treasonable Libel writ out fair, and promised me to meet me at the Boarded house, where we usually met in *Holborn* at Mr. *Fashions*, and I did there come and deliver him a Copy of this Treasonable Libel, and he said I should hear in a few daies from him, and should have a recompence, and this should be, but as an Entrance business; for I should be brought into the Cabal, where several Protestants, and Parliament men came to give an accompt to the Ambassador, how things were transacted, but to morrow said he, I cannot go to receive the Libel back again, for I am to go to *Knightbridge*.

*Fitz-Harris*. Where there?

Mr. *Everard*. To my Lord *Howards*, for said he, you have seen his Son often with me, my Lord *Howard* is very civil to me, he was my Fathers Lawyer.

Mr.



Mr. *Att. Gen.* Will you ask him any Questions Mr. *Fitz-harris*?

*Fitz-Harris.* Did you write this Libel?

Mr. *Everard.* Yes, by your Instructions I did.

*Fitz-Harris.* Do you believe I had any Trayterous intention in it?

Mr. *Everard.* Yes.

Mr. *Serj. Jefferies.* You said the more Treason the better, Mr. *Fitz-Harris.*

*Fitz-Harris.* Were you put upon this to Trapan others?

Mr. *Att. Gen.* 'Tis no Trapping to ask them to come, and hear you give him those Instructions sure.

*Fitz-Harris.* But I ask him this Question, Mr. *Attorney*, was he put upon it to Trapan others?

Mr. *Everard.* Can you mention any Person that I was to Trapan?

*Fitz-Harris.* Were you put upon it to Trapan the *Protestant* Lords, and the House of Commons?

Mr. *Everard.* No, I was not.

*Fitz-Harris.* Is this the same Libel that was read in the House of Commons upon which I was Impeached?

Mr. *Everard.* Yes, I believe, Mr. *Fitz-Harris*, it was.

Mr. *Att. Gen.* Mr. *Everard*, because he puts you upon it, and to satisfy all the world, I ask you upon your Oath, did any Person whatsoever put you upon this to Trapan other persons, or to put it into their Pockets as 'tis reported?

Mr. *Everard.* I was put upon it by none but Mr. *Fitz-Harris*, of whom I asked what will be the use of this, said he we shall disperse them, we know how.

Mr. *Att. Gen.* Did he tell you in what manner?

Mr. *Everard.* No, he did not tell how.

Mr. *Att. Gen.* To whom was it to be delivered?

Mr. *Everard.* I was to deliver it to *Fitz-Harris*, who was to deliver it to the *French Confessor*, and it was to be drawn in the name of the *Non-Conformists*, and put upon them.

Mr. *Serj. Jefferies.* What Religion is Mr. *Fitz-Harris* of?

Mr. *Everard.* He was always looked upon to be a *Papist*.

*Fitz-Harris.* When did you see me at Mass?

Mr. *Att. Gen.* Hath he not owned himself so?

Mr. *Everard.* He hath owned himself at several times to be a *Papist*.

Mr. *Sol. Gen.* What did he say to you about your being a *Protestant*, and what Cause you had to turn to the *Papish* Religion.

Mr. *Everard.* He said I was under great disadvantages, and had much loss by leaving them, I had better have adhered to their Interest still. He had this Discourse with me at several Meetings, and gave me several Visits, some at my Chamber, some at *Grays-Inn* Walks, sometimes at the House with black Posts in where we talk'd of several things.

Mrs. *Fitz-Harris.* I am sorry he kept such a Rogue as you are Company.

*L. C. J.* Officer take her away if she can't hold her tongue, and give better language.

*Fitz-Harris.* She will speak no more my Lord.

*L. C. J.* Stand still then, and be quiet.

*Mr. Att. Gen.* What was your Discourse at the Ale-house ?

*Mr. Everard.* To give Instructions to set the people together by the Ears, and one most effectual means was by scandalizing, and Libelling the Government, and especially the King.

*Mr. Jones.* Did any body else assist you in drawing the Libel ?

*Mr. Everard.* There is at the latter end of the Libel a Paragraph that was taken out of another Book, there was a scandalous Libel that was brought by the woman that carries Paper-books about, and out of that to make short work, and out of *The Character of a Popish Successor*, in which he said were many things material, he would have some of the Expressions of this Libel taken ; so I Copied some of the Queries out of that Paper which was said to be a Letter intercepted to *Roger L'Strange*, and that day that I was under examination before *Mr. Secretary Jenkins* that Libel lay before him upon his Table. He asked me if I had seen that, I told him yes, for I had Copied in that Paper that was the Libel, those Queries, and then said he here is a Warrant to be given out against *Curtis* for it.

*Mr. Serj. Jefferies.* After such time that you had carried him the Copy that *Sir William* had marked, and he amended it, did you shew it *Sir William Waller* presently.

*Mr. Everard.* Yes immediately, and I asked him, Sir says I, is there any alteration, yes said he, I see alterations, and shew'd them one. Do you know the difference of Hands said I, yes said he I do, and suppose will give you an account of it.

*Mr. Johnson.* My Lord, I humbly beg *Mr. Everard* may be asked who those Parliament men were, that were to concur with the *French* Ambassador in this design ?

*L. C. J.* Did he name any Parliament men ?

*Mr. Everard.* No he did not, he said I should know them hereafter.

*L. C. J.* Then he did not name any ?

*Mr. Everard.* No, he did not.

*Mr. Att. Gen.* Then Swear *Mr. Smith.* ( which was done ) Pray Sir will you look about, and give an Account what you know.

*Mr. Smith.* Will you have an Account how it came first to my knowledge ?

*Mr. Att. Gen.* Yes the whole, from the bottom to the top, from the beginning to the end.

*Mr. Smith.* I remember about the 22th. or the 21th. of *Feb.* either one or the other *Mr. Everard*, and one *Mr. Savile* came to my Chamber, and told me the same Design that *Mr. Everard* hath repeated before, and that there was an *Irish* Gent. an Officer of the *French* Kings Army that was to manage the thing ; he was one that could speak *French* very well, and they desired me to be concerned in it because I understood *French*. Upon this I told him I would willingly undertake such a business if I thought there were any convenient place in the room where I might hear, and see, undiscovered. After he had told me as he has before told your Lordships, that it was to make a difference between the King and his People, and to misrepresent the King as I shall inform you by and by. I went to his Chamber

Chamber after we had spoke to Mr. *Crow*, who would not undertake to speak *French* so well as to be capable of understanding all; but at last we met with Sir *W. W.* who undertook the matter. I walked immediately after Dinner to the Chamber, and saw the conveniences, and the next night we expected Sir *W. Waller*, but he not coming that night I went into the Closet my self till *Fitz-Harris* came according to the appointment. When *Fitz-Harris* came there were two Chairs set, one Chair next the Closet where I stood, and another opposite against me, that opposite against me was that where Mr. *Fitz-Harris* set, and Mr. *Everard* was next close to me, and I looked out through the hole, and I heard there were some little discourses about the business in hand. At last Mr. *Everard* stands up, and goes to the side-board, and brings a peice of Paper, about half a sheet as I think with him, and he read it, which was a Seditious kind of Paper which I shall tell you of by and by, and he asked him in *French* whether this were agreeable or no, to which the Gent. answered it was well, but something must be added to it. Upon this Mr. *Everard* took out his Note-book, and read something therein, and then Mr. *Everard* desired him to instance what heads he would have more than were there, to which *Fitz-Harris* replied, that he would have him to represent the King as a *Papist*, which might be demonstrated by several reasons; first his adhering to the Duke of *Tork*, and peremptorily resolving to espouse that Interest: The second reason was the preferring such as were the Dukes Creatures both at Sea and Land, and keeping in Office those that were preferred by the Duke, known *Papists*, and this was also another reason to prove that head of the Instructions, that the King after his Restoration procured an Act to be made, that it should be Treason for any to call him *Papist*, and this was only that he might the better, and with the more ease introduce *Popery* into *England*. He charged likewise King *Charles* the First to be a promoter of the *Irish* Rebellion, and that *Charles* the Second further'd and approv'd it; that is another Instance. That the Parliament at *Oxford* was only a sham to delude the people, and that such a King was not to be trusted with such a people, neither as to their Lives, Liberties, or Religion. but that the people must provide for themselves in time, and blow the Trumpet boldly. Another Instance was, as it was the undoubted right of the people to make Laws against, and to oppose a *Popish* Successor, so they might depose a *Popish* Possessor. To this effect was the substance of what was said.

Mr. *Att. Gen.* Did he name a Reward that Mr. *Everard* was to have?

Mr. *Smith.* There was a Reward mention'd, but I don't remember any particulars.

Mr. *Att. Gen.* Did he tell who set him on work?

Mr. *Smith.* He said if they did but set *England* together by the Ears the *French* would get *Flanders*, and at length prevail here, and Mr. *Everard* should get an Interest in the Common Council, and make it his business that they should make a kind of an Address to the Parliament, and promise to stand by them with their Lives and Fortunes in opposing *Popery*, and Arbitrary Government, and if Parliament-ways failed, to assist in another way; and if the King hindred the

the D of York to come to a legal Tryal, that then they should take other Courtes.

Mr. *Att. Gen.* What did he desire from Mr. *Everard*, when he seemed to boggle at his Instructions?

Mr. *Smith.* Mr. *Everard* said he would do these things, yet he was in great danger; Why says Mr. *Fitz-Harris*, so am I and a great many more; what other Conference was between them I know not, for I never saw them together after.

Mr. *Serj. Jefferies.* Look you Sir, is this the same Person?

Mr. *Smith.* Yes, I did know him to be the same person that night he was taken.

L. C. J. You could see him where you were?

Mr. *Smith.* My Lord, I saw clear enough, there was three Candles lighted, and I was as near to him, as I am to your Lordship.

L. C. J. You were not in the Room?

Mr. *Smith.* I was in a little Closet close by.

Mr. *Att. Gen.* You know nothing of the Paper of Instructions?

Mr. *Smith.* I remember he told me of such an one, but I was not there the second night.

Sir *Fr. Withins.* Mr. *Everard* said they were Treasonable things, what then said *Fitz-Harris*?

Mr. *Smith.* He said the more Treason was in them the better.

Mr. *Serj. Jefferies.* And the particulars were to set the people together by the Ears, and to bring in the *French King*.

Mr. *Smith.* It is all one in Terms.

Mr. *Serj. Jefferies.* How was it?

Mr. *Smith.* That the King and the people should be set at variance, then the *French King* would fall upon *Flanders* and *Holland*, and afterwards would take *England* in his way, and make no bones of it.

Mr. *Serj. Jeff.* Will you ask him any Questions Mr. *Fitz-Harris*?

*Fitz-Harris.* Do you believe that I did it with a Treasonable intention.

Mr. *Smith.* Sir I am not to judge of that, I am not of your Jury, nor to answer any such thing.

*Fitz-Harris.* What do you think Sir pray?

Mr. *Smith.* You could have no good Design to bring about by any such matter (I think) as this Paper is.

*Fitz-Harris.* Is this the same Paper that was read in the House of Commons?

Mr. *Smith.* Sir, I was not of the House of Commons I don't know what was read there.

Mr. *Johnson.* Mr. *Everard* did seem to hint at a Design among some *Protestant* Lords, and Parliament men, and others Dissenters from the Church of *England*, I desire to know whether Mr. *Smith* heard those words?

L. C. J. That was not the first night.

Mr. *Smith.* I did not hear it.

L. C. J. Look you Mr. *Johnson*, Mr. *Smith* was not present at the second Meeting, then Sir *Will. Waller* was there, it was only the first night Mr. *Smith* was there, and he speaks to that. Therefore as



to the alteration of the Copy, and some other things, he tells you that was done the second night, and then was the Discourse concerning the *French Confessor*, and those other things which you mention.

Mr. *Att. Gen.* I believe the Jury misapprehend Mr. *Everard* in that too.

L. C. J. It was only what *Fitz-Harris* told him.

Mr. *Att. Gen.* But I see the thing stick with the Jury, therefore I would fain ask Mr. *Everard* this Question, Did you declare any such thing, or was it Mr. *Fitz-Harris* that told you?

Mr. *Everard.* Mr. *Fitz-Harris* told me, that several Parliament men were joyned with the *French* Embassador to give him an account of things, but he told me besides, this must be drawn up as it were in the Name of the *Non-Conformists* to Father it upon them, yet when there was one word in it thou as if it were in the *Quakers* Name, no says he it must not be so, but it must be under the name of all the *Non-Conformists*, that it may be common to all the discontented Party.

L. C. J. So you must take the sense of this right, Gent. It is not Mr. *Everard* tells you some Parliament men, and Lords were ingaged in this business, but Mr. *Fitz-Harris's* design was to ingage *Everard*, and he urged what he could to encourage him to it. So that the Arguments he used were, that some Lords and Parliament men were ingaged in this to encourage him to go on.

Mr. *Johnson.* 'Tis true my Lord, so that here does appear there was some other Interest than the *French* Interest in this matter, if what Mr. *Fitz-Harris* said was true.

Mr. *Att. Gen.* *Fitz-Harris* said so to ingage him.

L. C. J. Look you Mr. *Johnson*, We do all verily believe and hope, there was no such thing as that any Lord, or any of the Commons of *England* were so ingaged, it was his Interest as Mr. *Fitz-Harris* took it to mention it so to ingage this Gentleman.

Mr. *Everard.* I did not say Lords.

L. C. J. What did you say then?

Mr. *Everard.* Parliament men in General.

Mr. *Att. Gen.* Then Swear Sir *Will. Waller* (which was done.)

Sir *Fran. Withins.* Pray Sir *William* will you give an account of what you know of this matter.

Sir *Will. Waller.* My Lord, the last time I was here in this Court being Summoned to give in my Evidence, I did make some difficulty of it upon the account that this Person was Impeached by the Commons of *England* in Parliament, but Mr. Justice *Jones* having declared the Law, required me in such a Case to give in my Evidence, I am now ready to give it in, and shall do it as briefly as I can.

L. C. J. Well Sir pray go on.

Sir *Will. Waller.* My Lord, upon the 22<sup>th</sup>. or 23<sup>th</sup>. of *Feb.* last Mr. *Everard* met me in the City, and told me he had a business of very great concernment to Discover to me, whereupon my Lord we went into a place where we might conveniently discourse together, and he told me in short, that Mr. *Edw. Fitz-Harris* that unfortunate Gent. at the Bar had been with him several times, and endeavoured to ingage him in a business, which would in effect turn all into Confusion in *England*, and render the King very odious in the sight of his Subjects. Many things he did there tell me, and earnestly pressed

me to joyn in this design to endeavour the Discovery of it. I was indeed at the first shie of meddling with it being no way in the Commission of the Peace, and so not liable to ingage in a business of that nature, but I was afraid to discourage Mr. *Smith*, who voluntarily, and ingeniously offered himself for the Service of his King and Countrey, but I did not go that afternoon, being willing to hear whether the business went on, and was likely to come to any thing; the next morning Mr. *Everard* writ to me this Letter (*plucking out a Paper.*)

Mr. *Just. Dolben*. Read it Sir.

Sir *Will. Waller*. My Lord, in effect it was this, to let me know Mr. *Smith* had been with him the night before, and that according as they had laid their business Mr. *Fitz-Harris* did indeed come, and had some discourse in the hearing of Mr. *Smith*, several things beyond what they had acquainted me with, things of the highest nature imaginable, and therefore he earnestly pressed me, as I tendred the welfare of my King and Countrey, that I would not fail to come that Afternoon to be an Ear-witness of the Treasonable practices that were in hand. I looked upon my self then obliged to go, and did according to the directions he gave me, go about three of the Clock in the Afternoon to a Tavern at the lower end of *Fullers-Rents* near *Grays-Inn*, and there we were to discourse further of the business. I had not been there long, but I looked out of a back Window, and spied Mr. *Fitz-Harris* with another Gent. in a Brown coloured Suit, walking just before *Grays-Inn* Door. I don't know the name of the Court, but there I saw them walking, but in their going he frequently looked up at Mr. *Everard's* Chamber, and pointed at it. When he was gone, I told him it may be Mr. *Fitz-Harris* may come sooner than the hour appointed, therefore I think it will not be amiss to go without further delay to your Chamber, and see what Conveniency there may be to lie secret where I may be both an Eye and an Ear-witness I went to his Chamber, and when I came into the Room there was a little Closet which I thought not so convenient for me, and I rather chose to look about if I could find another place more convenient. In short in the next Room I found by my Cane there was a door, and Hangings over it. I turned up the Hangings there, and in the door there was a Crevas which I opened a little with my Knife, and ripped a whole in the Hangings which looked into the Room where the Gent. was to be. And before Mr. *Fitz-Harris* came, Mr. *Everard* had given me a large account much after the same manner that he hath given in his Testimony here, and he shew'd me two Papers: I took the two Papers, and gave them a private Mark that I might know them again, and withal we placed a Table, and a Chair ready against Mr. *Fitz-Harris's* coming in, and agreed that he should be placed so, as that through the hole I might have a full sight of him, but lest by an accident he should be removed from thence, I desired Mr. *Everard* to ask him three Questions. The 1<sup>st</sup>. was, whether he had not Married a Daughter of one Captain *Finch's* whose Father was killed in his Majesties Service; the 2<sup>d</sup>. was, whether as he read over the Paper it was drawn up according to his Instructions; and the 3<sup>d</sup>. was, who was the Person that should recompense Mr. *Everard* for running so great an hazard. According to these Instructions the Table being placed



placed and every thing in Order about seven a Clock, or between six and seven Mr. *Fitz-Harris* came in, and being fate down he began to ask some Questions, amongst others——

*Then some Complaint was made by the King's Council of Papers given to Mr. Fitz-Harris.*

*Fitz-Harris.* Pray my Lord, I beg that Paper may be given to my Wife again.

*Mr. Att. Gen.* I pray it may be given to the Court.

*Mr. Serj. Maynard.* I pray they may be read.

*Mr. Sol. Gen.* 'Tis not the duty of a Solicitor to bring Papers, he was only appointed by the Court to run of Errands, he is not to advise, or furnish with matter of Defence.

*Mr. Serj. Jefferies.* My Lord, this is an offence Committed in the face of the Court, therefore we pray the Person that hath done it may be Committed.

*Mr. Just. Dolben.* It is nothing but the Resolutions of the House of Commons, give it him again.

*L. C. J.* If Mr. *Whittaker* lies there to trouble the Court, we shall find another place for him.

*Mr. Sol. Gen.* My Lord, Mr. *Whittaker* hath done his duty now, and what Service your Lordship appointed him, for I think he may be sent away for here is no more business for him.

*Sir Will. Waller.* Mr. *Fitz-Harris* came in, I think it was between six and seven a Clock, and coming there he fate himself down in the Chair prepared for him, and Mr. *Everard*, according to the Instructions I had given him, did ask him several Questions, but Mr. *Fitz-Harris* did ask him first whether he had finished the Paper according to some Instructions he had given him. Mr. *Everard* produced two Papers, the one was the Copy of the other as I counted. Mr. *Fitz-Harris* had one given into his hand, and the other Mr. *Everard* had. Mr. *Everard* after he had read a little in it did ask whether this was drawn up according to the Instructions Mr. *Fitz-Harris* had given, he answered it was exactly according to the Instructions he had given him. After he had read a little further says Mr. *Everard* to him, this is a business of very dangerous Consequence, what reward shall I have for running so great an hazard, he told him again thus, Sir says he I think I run an equal hazard with you; for you have a Paper under my hand which will render me liable to danger, and then he went on and read further, and if Mr. *Attorney* will please to let me see the Paper, there is one particular Clause in it that I took special notice of.

*Mr. Att. Gen.* Would you have the Libel, or the Paper Sir William?

*Sir Will. Waller.* The Libel Sir, ( which was given him ) There was one passage in it which I remember, and it was this ( speaking of the Kings preferring Persons that were engaged in the late *Irish* Rebellion ) the Paper was first ( prefers ) but says Mr. *Fitz-Harris* in *French* it must be ( has promoted ) several passages of this nature I heard him alter, and I saw him alter with his Pen. For after such time as Mr. *Fitz-Harris* was gone out of the Room I went immediately into the Room where Mr. *Everard* was and took notice of the Paper, and the Ink upon the Paper was hardly dry.

Mr.

*W*

Mr. Att. Gen. Look upon that, that is the Original, and the other the Counter part.

Sir Will. Waller. Here is the mark, ( then pointing to the bottom of the Paper ) These two Papers I marked both together, and this is the Paper Sir was mented. I do remember it more particularly, for this Paper I had in my own Custody, and signed it afterwards.

L. C. J. Well Sir go on.

Sir Will. Waller. He was asking him, pray Sir said he, what Reward shall I have, why says Mr. Fitz-Harris you shall be very well paid, you shall not need to fear, you shall have all manner of encouragement. This business will bring a considerable Advantage to you, and you shall be otherwise preferred than when you were in the French King's Service. Says he, you cannot but know how you have been slighted and neglected notwithstanding the Service you have done, and the French Ambassador is the Person that is to recompense you for your pains, and he spoke of forty, but truly I did not hear whether it were Guinys, or what it was that he should have for present payment, and I heard him speak something of a Pension he named three Thousand Crowns, but whether annually or how I cannot tell. Pray Sir said he what shall I do in this Case for I do not know, I am but in a low Condition, and have occasion for money, why says he the French Ambassador will supply you, and you shall certainly as soon as the Paper is perfected have your reward and says he there are a great many more that we have employed in businesses of this nature, to create misunderstanding between the King and his people, by which means the French will easily over run Flanders and the Low-Countries, and then England will become an easie Morfel. And this is the substance of what I remember.

Fitz-Harris. Do you believe I had any such Design as Treason in it.

Sir Will. Waller. I can't say any thing to that, I only speak as to the matter of Fact.

Mr. Att. Gen. Did he declare he had many more employed in the Service?

Sir Will. Waller. Yes he did say so. And said he there are two Parliament men that frequent my Lord Shaftesbury's who my Lord does not suspect, that do come and sound him, and then go and acquaint the French Ambassador with all they can discover.

Fitz-Harris. Is this the same Paper by the Oath you have taken, for which I was Impeached by the Commons in Parliament?

Sir Will. Waller. Yes, 'tis a Copy of the same Paper, and that Paper I did read in the House.

Mr. Att. Gen. 'Tis the Original.

Mr. Johnson. My Lord, I desire to ask Sir W. Waller one Question, Sir you have heard the Indictment read, then pray tell us whether this very Libel be expressed in the Indictment according to what was delivered in the House of Commons.

Mr. Att. Gen. You shall hear that by and by your selves. For you shall hear the Paper read to you with the Indictment.

Sir Will. Waller. This is a Copy of that Paper.

Mr. Johnson. Does Mr. Fitz-Harris stand Impeached by the House of Commons upon the same Treasons mentioned in the Indictment?

Sir

*Sir Will. Waller.* Yes, Sir.

*Mr. Att. Gen.* Upon the same Treasons?

*Sir Will. Waller.* Upon this Treasonable Paper he does. For as soon as ever I had communicated this Paper to the House, and I had made my Report of the Treasonable transactions of *Mr. Fitz-Harris*, the House immediately proceeded to the Impeachment.

*Mr. Sol. Gen.* Does the Impeachment mention that Paper? Or what particular Treason he was Impeached upon?

*Sir Will. Waller.* I know nothing of that. But upon this Paper that Impeachment was grounded, that is all I can say.

*Mr. Sol. Gen.* That this Libel was spoken of in the House of Commons, is true, but it does not appear upon the Impeachment that he was Impeached for that Libel.

*L. C. J.* Have you any more Witnesses?

*Mr. Att. Gen.* Yes, we have to other matters. But we desire to let them alone till the Libel be read.

*Mr. Johnson.* My Lord, we beg we may have the comparison of the Libel with the Indictment.

*Fitz-Harris.* I would ask *Sir W. Waller* one Question more upon his Oath, whether he had any design of Trapping me, or any body else in this thing.

*Mr. Sol. Gen.* Had you any design to trapan the Prisoner, or any body?

*Sir Will. Waller.* No *Mr. Fitz-Harris* indeed not I.

*Fitz-Harris.* I looked upon you always as a Person that was my Enemy.

*Mr. Att. Gen.* What, because you were a Papist?

*Fitz-Harris.* No, it was upon another account, I appeal to *Mr. Justice Dolben*.

*Mr. Just. Dolben.* What do you appeal to me for?

*Mr. S. Jeff.* Have you known *Mr. Fitz-Harris* before, *Sir William*?

*Sir Will. Waller.* Yes, many years.

*Mr. Serj. Jefferies.* What Religion was he reputed to be of?

*Sir Will. Waller.* A Roman Catholick.

*Fitz-Harris.* I am not bound to continue so always.

*Mr. Jones.* Then shew your Conversion.

*Mr. Att. Gen.* Pray let the Libel be read.

*Then the Paper was produced.*

*Mr. Att. Gen.* *Sir W. Waller*, and *Mr. Everard*, is that the Paper?

*Mr. Everard.* This is the Paper.

*Mr. Att. Gen.* Is it interlined with his own hand?

*Mr. Everard.* Yes; for there is the words (have promoted) that I said before, he altered.

*L. C. J. Gent.* pray mark this now, you will hear the Clauses contained in the Indictment read, and you shall hear this Paper read, and then your selves shall be Judges whether it does contain them yea, or no.

*Mr. Johnson.* We desire to see it at the Bar.

*Mr. Att. Gen.* Here is a Copy of these Clauses you may Examine it by that.

H

Mr.

Mr. Serj. Maynard. 'Tis not the whole Libel, but only some Clauses of it he is Indicted for.

L. C. J. Yes, Brother. But what they desire is only to see whether so much as is contained in the Indictment, is also in the Libel.

Mr. Att. Gen. Pray Swear Mr. Astrey then ; which was done.

L. C. J. Look you Gent. this is one that is intrusted with the Affairs of the Crown. He is now Sworn, and I ask him this Question for your satisfaction. Mr. Astrey, Are the *English* sentences that are in the Indictment also comprised in the Libel ?

Mr. Astrey. My Lord, I did examine this Indictment with the Libel at Mr. Attorney Generals Chamber as well as I could, and they are *in terminis* the same, the words in the Indictment, and the words in the Libel.

Mr. Johnson. My Lord, if all be not in the Indictment that is in the Libel then perhaps there may be some Connexion with what is antecedent, something to explain those Clauses the Indictment mentions so that they may bear another Construction. Therefore we would have all read.

Mr. Serj. Maynard. It must be all read to them.

L. C. J. Yes, Brother it shall be wholly read to them, though it need not be expressed *de verbo in verbum* in the Indictment, yet for their satisfaction it shall be wholly read to them.

Mr. Sol. Gen. These Gentlemen are very cautious I perceive.

L. C. J. Look you Gent. if you will attend the Court we will give you what satisfaction we can, pray Mr. Solicitor give them leave to speak to the Court ; what you desire Gent. is reasonable enough, that you may hear the Libel to see whether these are not Clauses taken out of a Paper which may have another Import in the Paper than they have when they are taken out. That is your meaning.

Mr. Johnson. Yes, my Lord.

L. C. J. To that intent you shall hear the Libel read distinctly, you shall have the very Clauses of the Indictment by you that you may look upon them.

Mr. Att. Gen. The other part of the Libel will do it.

L. C. J. Pray Mr. Attorney don't direct me, they shall have the Indictment whilst Mr. Astrey reads the Libel, that they may see the import of the words. And you do not apprehend it aright. Mr. Johnson does not desire to see whether Mr. Astrey read right, but whether those Clauses in the Indictment are of the same import in the Indictment that they are of in the Libel. Therefore they must have a Copy of the Indictment whilst Mr. Astrey reads the Libel, and Mr. Astrey pray mark those Clauses when you come to them, for you will find they are dispersed up and down the Libel.

Mr. Astrey. I do not Swear to that very Paper, but I believe you will find they are rightly taken out of the Libel in the Indictment.

Mr. Att. Gen. This is the Copy of the Indictment Clauses.

Cl. of Cr. reads. Friend I thank thee for the *Character of the Popish Successor* —

*Then one of the Jury having the Copy in his Hand, and not finding it exact desired a true Copy.*

Sir Will. Waller. Here is a true Copy of it I took my self and read in the House. Then



*Then the Libel was read through, and the Clauses particularly observed.*

*L. C. J.* Gentlemen, now you have heard it read. And you may observe there is nothing in this Paper can extenuate or mitigate the Clauses, but abundance to make them more horrid and exceedingly aggravated.

*Mr. Att. Gen.* Then call *Mr. Savile* who was the person *Mr. Everard* did meet with, and acquaint with this business. (but he did not appear) Then call *Sir Philip Lloyd* and *Mr. Bridgman*. My Lord, the next piece of Evidence we shall give is this, *Sir Will. Waller* and *Mr. Everard* do both say, that he gave part of his Instructions under his own hand, we shall produce the Paper and prove he acknowledged it to be his own hand.

*Then the Paper was produced.*

*Mr. Att. Gen.* Who writ that Sir?

*Mr. Everard.* *Mr. Fitz-Harris*.

*Mr. Att. Gen.* Are those the Instructions he gave you to frame this Libel?

*Mr. Everard.* These are part of the Instructions my Lord, other part I took in my Table-Book before *Mr. Smith*.

*Mr. Att. Gen.* We will prove it by other Witnesses, *Sir Philip Lloyd*, and *Mr. Bridgman*.

*Mr. Bridgman Sworn.*

*Mr. Att. Gen.* Did the Prisoner acknowledge that to be all his own Hand-writing?

*Mr. Bridgman.* Yes my Lord, *Mr. Fitz-Harris* did acknowledge it to be all writ with his own hand.

*Sir Philip Lloyd Sworn.*

*Sir Fr. Withins.* Look upon that Paper Sir, (which he did) Did *Mr. Fitz-Harris* acknowledge it was his Hand-writing?

*Sir Philip Lloyd.* Yes he did, and that I might bear Testimony of it the better, I writ with my own hand on the back of it, that he did so.

*Mr. Att. Gen.* Read it.

*Cl. of Cr.* read. After this Shani Meeting of the Parliament at *Oxon* which no body expects any good of, it will be necessary, &c.

*Mr. Sol. Gen.* These words are likewise in the Indictment.

*L. C. J.* When was that given to you *Mr. Everard*, For—  
*Mr. Fitz-Harris* it seems owned it before the Lords in the Council, but *Mr. Everard* Swears the delivery of it, what time was it?

*Mr. Everard.* It was either *Monday*, or *Tuesday*.

*L. C. J.* In *February* was it not?

*Mr. Everard.* Yes, and I asked Captain *Fitz-Harris* according to *Sir W. Wallers Queries*, whether he had given Instructions according to what he would have contained in the thing, yes said he; but have you not enough under my own hand to do it by.

*Mr. Serj. Maynard.* My Lord, we have done our Evidence, we will leave it now to hear what the Prisoner will say for his Defence.

*L. C. J.* *Mr. Fitz-Harris* if you have any thing to say for your Defence this is your time to do it.

*Fitz-Harris.* Yes, my Lord *Dr. Oates* I desire may be called.

*Mr. Att. Gen.* If you have any Witnesses name them.

*Mrs. Fitz-Harris.* Yes, yes *Dr. Oates*, and ask him what he heard *Mr. Everard* say.

*Lord*

*L. C. J.* What say you to *Dr. Oates*, here he is.

*Fitz-Harris.* Pray *Dr.* what have you heard *Mr. Everard* say about this Libel since I was taken.

*Dr. Oates.* My Lord, after this business was talked of abroad having heard that *Sir William Waller* and *Everard* had made the Discovery, I did Discourse *Mr. Everard* about the business, and about the Libel. He told me he wrote the Libel, and when I would not believe it the man was a little angry that I would not believe it. And then I told him he was a man very unfortunate in speaking; for he spoke but badly; he said though he was unfortunate in his Tongue, yet he was as fortunate in his Pen, and that he took a great deal out of the intercepted Letter to *Roger Le'Strange*, and I then asked him what the Design of it was, he told me it was to be Printed, and to be sent about by the *Penny Post* to the protesting Lords, and the Leading men in the House of Commons, and they were to be taken up as soon as they had it, and to be Searched, and to have it found about them. I then asked him if there were any other Persons concerned in it besides those publicly talked of, he told me the Court had an hand in it, and the King had given *Fitz-Harris* Money already, and would give him more if it had success. This he told me at *Oxford*, and before he went thither, and after.

*Fitz-Harris.* *Mr. Sheriff Cornish*, I do beg you would declare what his Majesty told you, when you came to him from me, when I was at *Newgate*.

*Mr. Sheriff.* I do not know what you call me for, *Mr. Fitz-Harris*.

*Fitz-Harris.* I desire you to acquaint the Court what the King said to you when you came to him from *Newgate* from me.

*Mr. Sheriff.* My Lord, I shall desire your Lordships opinion in this matter, whether it be seemly or decent for a Subject to declare, what Discourse his Prince is pleased to have with him.

*L. C. J.* Look you Sir, if you give any Evidence, give it. We are not to direct any Witness whether they shall give their Evidence, or not.

*Mr. Att. Gen.* *Mr. Sheriff*, you ought to do it openly if you give any, therefore pray let us hear you.

*Mr. Sheriff.* My Lord, I cannot remember what was said relating to this particular matter. There was a great deal his Majesty was pleased to discourse with me concerning things of several kinds and Natures, my Memory may fail me, but if *Mr. Fitz-Harris* please to ask as to any particular matter.

*Fitz-Harris.* What the King said when you came from *Newgate* to him, to acquaint him that I would make a Discovery. Did he say I was employed by him, and received any Money, and what for?

*Mr. Sheriff.* My Lord, I do remember something of that kind. When I was giving his Majesty an account that I found the Prisoner at the Bar in a disposition to make a Discovery, his Majesty was pleased to tell me he had often had him before him and his Secretaries upon Examination, and could make nothing at all of what he did say or Discover to them, and his Majesty was pleased likewise to say, that he had for near three Months before acquainted him, that he was in pursuit of a Plot a matter that related much to his Majesties Person and Government, and the King did say in as much as he made great Protections of his Zeal for his Service, he did Countenance and give him some Money, I know nothing more.

*Mr. Att. Gen.* Did the King ever declare that he saw *Fitz-Harris* in his Life, or that he ever was in his Presence?

*Mr. Sheriff.* Yes.

*Mr. Att. Gen.* Ay, but before his appearing at the Council Table, did the King ever say he saw him, or before he was Arrested for this Fact?

*Mr. Sheriff.* Yes, his Majesty was pleased to say about three Months before, he came to him and pretended he would discover a great Plot to him.

*L. C. J.* Have you any other Questions to ask *Mr. Sheriff*?

*Fitz-Harris.* No. Where is Colonel *Mansel*.

*Dr. Oates.* My Lord, I desire that if the Prisoner have any more Questions to ask me he may do it, because the Croud is great, and I would go out.

*Fitz-Harris.*

*Fitz Harris.* Sir, I have many more Questions to ask you; I desire you would please to stay.

*L. C. Just.* You must stay if he have any more Questions to ask you. Here is *Col. Mansel*, what say you to him?

*Fitz Harris.* Col. What did you hear *Sir William Waller* say after this Discovery was made?

*Col. Mansel.* That which I heard *Sir William Waller* say, was this; I had occasion to speak with *Sir James Hayes*, and enquiring for him, I found he was at the Dog Tavern; so I went up, and found in the Company, *Sir William Waller*, and another Gentleman one *Mr. Hunt*, and some more. After the rest of the Company were gone, and only *Sir James Hayes*, *Mr. Hunt*, my self, and *Sir William Waller* left, *Sir William* was giving an account of this Business, and said, The King, when I had acquainted him with it, told me I had done him the greatest piece of Service that ever I had done him in my life; and gave me a great many Thanks. But I was no sooner gone from thence, but two worthy Gentlemen gave me an account, that the King said, I had broken all his Measures, and he would have me taken off one way or another.

*Fitz Harris.* Did he say any thing, that it was a Design to put the Libel upon the Protestant Lords, and the House of Commons?

*Col. Mansel.* There was that said.

*L. C. Just.* What was said? don't come with your imperfect Discourses here, but if you give Evidence, tell what was said.

*Col. Mansell.* *Sir William Waller* said, That the Design was against the Protestant Lords, and the Protestant Party.

*Mr. Serj. Maynard.* I do not doubt that it was against the Protestant Party.

*Mr. Attorn. Gen.* Recollect your self; Was it against the Protestant Lords, or the Protestant Party?

*Col. Mansell.* He said, the Protestant Party.

*Mr. Attorn. Gen.* So say We.

*Fitz Harris.* Did he not say it was another Sham Plot, Sir, against the Phanaticks, and the House of Commons? Where is *Mr. Hunt*? [*Mr. Hunt* appeared.

*Mr. Hunt.* What would you have with me, *Mr. Fitz Harris*? I never had any conversation with you in my life.

*Fitz Harris.* No Sir; But what have you heard *Sir William Waller* say concerning my Business?

*Mr. Hunt.* My Lord, I would rather I had lost my hearing for that time, than have heard it to repeat it. *Sir William Waller* did tell me, at the Dog Tavern, where was *Sir James Hayes* and *Col. Mansell* by, after he had read over the Libel to us, there was a great deal of Company more, but he only gave us the curiosity to see what the Libel was. And when he had read it, he did tell us, That the King gave him particular Thanks for that good service he had done him in detecting *Fitz Harris*; but he said he was told by two Gentlemen that had heard the King speak it, who were of undoubted credit, That the King was in an extream passion, bestowed many hard Names on him, and said, He would give any thing in the World to take him out of the World; that he was an insufferable vexation to him, and that he had broken all his Measures. And he said the same things again, in the presence of *Sir Philip Harcourt*, and my Lord *Radnor's* Son *Mr. Roberts*, at *Capt. Hall's* Chamber, in *Pembroke College* in *Oxon*.

*Mr. Attorn. Gen.* What did he say about the Prisoner?



Mr. *Hunt*. This was about the Libel of *Fitz Harris*, that the King gave him particular Thanks about that Business; and afterwards the King did express great passion, in some short time after he was gone; and he did say he was informed by two Witnesses that heard the King say it, He knew not what to do with him, he broke all his Measures.

*Fitz Harris*. Did he not say this was a Design against the Protestants?

Mr. *Hunt*. He did say it was a Design to contrive these Papers into the hands of People, to make them Evidences of Rebellion; and that was his apprehension of the thing. And he said further, (for I am a Witness here, and must speak all my knowledge) that he had another Plot which he had traced near to a full discovery, a more horrid Plot than this or *Dangerfield's*, for, he said, this was the Counter-part of *Dangerfield's* Plot. I hope he will not deny it, if he be asked, here he is, and upon his Oath; I am not, and I desire not to take credit unsworn, but am willing to give my Testimony on Oath.

*Fitz Harris*. Where is Dr. *Cary*?

Mr. Sheriff *Cornish*. Dr. *Cary* is not well, my Lord, and can't come.

*Fitz Harris*. Then Mr. Sheriff *Bethell*.

Dr. *Oates*. My Lord, I pray I may be discharged.

L. Ch. *Just*. Doctor, we have nothing to say to you, but the Prisoner hath more Questions to ask you. 'Tis not we that detain you, but you stay upon the Prisoner's account.

*Fitz Harris*. Mr. Sheriff *Bethell* desires to know what you can say concerning Mr. *Everard*.

Mr. Sheriff *Bethell*. My Lord, I know nothing of Mr. *Everard* as to this Business, save that he told me he writ the Libel himself. And I confess, my Lord, further, that before ever he knew my face, or before ever he heard me speak a word in his days, he put in an Information of Treason against me, at the instigation of one that is known to be my mortal Enemy; and it was so groundless, that tho' it was three Years ago given in, yet I never heard a word of it till *Friday* last. I can bring Witnesses of this, persons that sent the notice of it to me.

*Fitz Harris*. Pray call Mrs. *Wall*. (Who came down from her Seat.)

*Fitz Harris*. Mrs. *Wall*, Pray will you tell the Court, have not I conveyed some Libels, and Treasonable Papers to the King by your means, and received Money upon that account.

Mrs. *Wall*. Not as I know of.

*Fitz Harris*. Did not you receive some of them from me to give to the King?

Mrs. *Wall*. No indeed not I.

*Fitz Harris*. Is the Footman here that was by, when you paid me the Money?

Mrs. *Wall*. Yes, and the Porter too, tho' you have not *Subpena'd* them.

*Fitz Harris*. How long ago is that?

Mrs. *Wall*. Two Years ago.

*Fitz Harris*. Was it not about *Christmas* last was twelve month I gave you the Libel about the King and your Lady; and the King thanked me extremely, and I had 250 *l.* given me? Come, Mrs. *Wall*, don't think to trick me out of my Life in the Case, for I will not be tricked so. Pray tell the Court, Can you deny that I had the 250 *l.*? speak, Mrs. *Wall*, had I 250 *l.*?

Mrs. *Wall*. That was not the Question you asked me at first.

*Fitz Harris*. But speak, had I it?

Mrs. *Wall*. There was 250 *l.* I think it was 200, or 150, or 250 *l.*

*Fitz Harris*. What use was it for? and upon what account?

Mrs. *Wall*. You do know it was not for any Libel.

*Fitz*



*Fitz Harris.* If you have any mind, tell it.

*Mrs. Wall.* There it is. (*Delivering in a Paper to be read.*)

*Cl. of Cr.* The humble Petition of *Edward Fitz-harris.*——

*Mrs. Wall.* I really took him for as honest a Man as ever I knew in my life, and had it been in my power to have done him a kindness, I should not have failed to have done it.

*Mr. Attorn. Gen.* Was he your Countryman, Madam ?

*Mrs. Wall.* Yes, he is, and my Relation too. I knew you to be the Son of a very suffering Loyal Family ; and while his Mother was in Town, he came often to our House ; and when she went away, he left visiting the House a great while. And you, *Mr. Fitz-harris*, did once tell me, You could bring in People to the King's Interest, that were very considerable. So I spoke to the Secretary of State about you, that there was one that had been with me, and told me, that he could bring in those to the King and Duke's Interest that were very considerable. The Secretary of State desired me to know who they were ; and then he named to me one *Thomas Merrey*, and another Person who I desire to be excused from naming. The other Party he did name, was thought considerable, both for Quality and Understanding. And the Secretary desired me to get him in if I could.

*Mr. Attorn. Gen.* Pray, Madam, who was it ?

*Mrs. Wall.* I desire *Mr. Fitz-harris* may tell you.

*Fitz Harris.* No, *Mrs. Wall*, pray do you tell it, since you have spoke of it.

*Mrs. Wall.* I say nothing but what I will take my Oath of.

*Fitz Harris.* Then you will never swear that which is true. Pray, *Mrs. Wall*, speak, who was it ?

*Mrs. Wall.* I desire I may not name him, but he may.

*Mr. Attorn. Gen.* He will not.

*Mrs. Wall.* Truly, I do not think it convenient for me to name such Persons as those are upon such accounts.

*Fitz-Harris.* Pray, *Mrs. Wall*, name the Person that I would have brought into the King's Service.

*Mrs. Wall.* If the Court commands me, I will ; otherwise I will not.

*Fitz-Harris.* Did you ever, upon any such account as this, receive any Money for me, speak the truth ?

*Mrs. Wall.* God forbid your Blood should lie at my door ; I assure you I should be sorry for it. He told me, these Persons were considerable for the King's Interest, and could do him extraordinary good Service. So, as I said, I spoke to the Secretary of State ; and he would know who they were. And when he was told who they were, as for one of them, *Thomas Merrey*, he was not thought worth the looking after, for he was thought an inconsiderable Rascal ; but as for the other Gentleman, he was thought a Man of Worth, and a Person, that if he would, could really serve the King. Upon this, when you first came, I was never at rest for you ; and therefore, after a while, before you came again, I gave the Porter order to tell you, I was not at home ; and I desire the Porter may be asked the Question. But when I next saw the Secretary, I desired that he would give them a positive Answer, one way or the other ; and the next time I saw you, this was your Business, and I told the Secretary of State of it. You gave me this Paper, and desired me to solicit for your Quit-Rent in *Ireland*, for you were in great misery, and had been a great Sufferer.

Sufferer. So I spoke to the Dutcheſs of *Portsmouth*, and ſhe ſpoke to the Secretary of State ; that if this Man be ſo conſiderable a ſufferer, 'tis convenient to give him ſomething for his encouragement ; and if you will give him ſomething, ſaid I, give it him quickly. I was 4, if not 6 months a getting this money.

*Fitz-Harris*. But will you ſay it was upon that account ? When was that money paid ?

*Mrs. Wall*. I never thought I ſhould be brought in for a Witneſs ; or that you would have abuſed me thus for my kindneſs.

*Fitz-Harris*. When were thoſe Papers given you that you produced ?

*Mrs. Wall*. I wiſh I may never ſee the Face of God, if I know any more than what I give Evidence ; there are the Papers, they will tell you the time.

*Fitz-Harris*. Did I give them you ?

*Mrs. Wall*. You or your Wife did ; and I ſuppoſe your Wife's condition was yours.

*Fitz-Harris*. Was not the money received before ever thoſe Papers were given you ?

*Mrs. Wall*. Nay, Mr. *Fitz-harris*, I will tell you more ; ſend to Mr. *Henry Gny*, and let him tell you when he paid it you.

*Fitz-Harris*. Call the Porter, and the Footman if he be here.

*L. Ch. Juſt.* If you will aſk any more Queſtions of *Mrs. Wall*, do.

*Fitz-H.* Did not I come to you the Wednesday before I was taken, and told you, I deſired to ſpeak with the King, and that I had a Libel to preſent to him ?

*Mrs. Wall*. No, ſo far from that, that it was the Thursday before you were taken, you came about nine a Clock at Night to our Lodgings, and ſent up to my Chamber ; and I ſent word that Mr. *Cowling* was there, for I did not care to ſee you ; but you ſent word up, you had ſomething of Conſequence to tell me. So I came down, and you deſired me to bring you to the ſpeech of the King ; which was a thing you did never deſire before : And you ſaid thus, If you did but ſee the King, you believed you could ſay ſomething to him that might do him ſervice.

*Fitz-Harris*. Did not I ſay here is the Libel that I come to deliver to the King now ?

*Mrs. Wall*. No, as I have a Soul to be ſaved.

*Fitz-Harris*. *Mrs. Wall*, I did, and this was what you ſaid at the ſame time ; That ſince my Lord *Sunderland* was gone, you could have no ſecret Service. I did deſire to ſpeak with the King privately, thoſe were my words ; and you told me, you could not ſo eaſily do buſineſs with the King ſince my Lord *Sunderland's* time.

*L. Ch. Juſt.* We muſt not let you hold a Dialogue between your ſelves, you muſt ſpeak that the Court may hear.

*Mr. Attorn. Gen.* Was not he a Roman Catholick ?

*Mr. Wall*. Yes, we looked upon him ſo, and upon that account we ſaid it was dangerous for him to go near the King.

*Mr. Attorn. Gen.* Did you know that ever he was admitted to the King ?

*Mrs. Wall*. Never ; but he hath been talking with me in a Room as the King paſſed by.

*Mr. Attorn. Gen.* Did the King ever take any notice of him, ſpeak to him ?

*Mrs. Wall*. The King never took notice of him, nor ſpoke with him by my means, nor gave him money, other than what I ſpeak of, nor the Dutch of *Portsmouth*.

*L. Ch. Juſt.* Look you, *Mrs. Wall*, I think you do ſay that there was ſome money paid to Mr. *Fitz-harris*, pray ſpeak plain upon what account was it paid.

*Mrs. Wall*. My Lord, it was for the bringing of my Lord *Howard* of *Eſſerick*, who is there ; ſince you preſs me to it, I muſt tell, I think my Lord will not deny it.

Lord

Lord *Howard*. I will never deny the Truth.

*Fitz-Harris*. Where was my Lord *Howard* of *Escrick*?

Mrs. *VWall*. He was not so much for the King's Interest, or that which they call the King's Interest.

*Fitz-Harris*. How long is this since?

Mrs. *VWall*. Two Years ago since he came first to me; but whether it be a Year and an half since my Lord met with the King, I cannot tell.

*Fitz-Harris*. When my Lord was admitted in to the King, I did wait on him to that purpose, to bring in my Lord *Howard*.

Mrs. *VWall*. I desire that my Lord *Howard* may be asked, whether he don't remember, when the King was coming, Mr. *Fitz-harris* was put out of the Room first.

*Fitz-Harris*. You say, I never shewed any Libel to the King.

Mrs. *VWall*. I tell you what I said since to this Gentleman that is here; I wish you shad shewn the Libel unto me, that I might have been in a capacity of saving your Life.

*Fitz-Harris*. You said, that I had the 250*l*. for bringing in my Lord *Howard*.

Mrs. *VWall*. I say, it was upon promise to bring in Persons that would be useful and serviceable to the King.

L. *Ch. Just*. She is your own Witness, and she tells you, two Persons you did undertake to bring in, and for that you had this Mony.

Mrs. *VWall*. It was his Poverty and this together.

Mr. *Serj. Jefferies*. Mrs. *VWall*, I conceive he never discovered this Libel unto you; but, pray, did he ever discourse with you about *Everard*? and what Character did he give him?

Mrs. *Wall*. Once he did, and he said he was an honest Man; and asked me if I would be acquainted with him? I told him, No, for he had a knavish Reputation; he was an Informer, and I cared for no Informers.

*Fitz-Harris*. Mrs. *Wall*, to let the World see how you shuffle about me, When did the King see my Lord *Howard* first, when I brought him?

Mrs. *Wall*. I don't know, ask my Lord *Howard*.

*Fitz-Harris*. Did not I speak to the King in the outer Room? and did not you get me to make a stand there?

Mrs. *Wall*. Mr. *Fitz-harris*, don't make me tell that thing.

*Fitz-Harris*. Pray speak the Truth, Mrs. *Wall*.

Mrs. *Wall*. I defie you, and all Mankind, to say I do otherwise. You did desire me to tell the Duke, that you would first bring my Lord to him, and then to the King; and I spoke to the Duke, and he said you were a Rascal, and he would not meddle with you; this you know.

*Fitz-Harris*. Did not my Lady *Portsmouth* tell me, the Duke was angry, &c?

Mrs. *Wall*. Mr. *Fitz-harris*, when you came to me upon such an Errand, was it reasonable that I should bring you, upon every trifle, to the speech of the King, and I should not bring you then, 'tis without sense and reason.

L. *Ch. Just*. You must not ask Questions, but Answer. And, Mr. *Fitz-harris*, do you design to detect Mrs. *Wall* of Falshood? she is your own Witness, you consider not you can get nothing by that.

*Fitz-Harris*. My Lord, when you see the Papers produced, you will find it is upon another account.

Mrs. *Wall*. Is this your hand, Mr. *Fitz-harris*? (*Shewing him a Paper.*)

*Fitz-Harris*. But is not this upon the account of a Pension granted in *Ireland*? Pray let the Gentlemen of the Jury see, this is of another different nature;



nature ; I appeal to my Lord *Howard* of *Esrick*, whether he did not speak to my Lady about it.

*Lord Howard*. I did so.

*Mrs. Wall*. My Lord did second my Lady to get you some Charity.

*Fitz-Harris*. So that the mony received here, was plainly upon another account.

*L. Ch. Just.* Look you, if you will have any Papers read, they shall be read. But the Gentlemen of the Jury must not see any Papers but what are read.

*Then the Petition of Mrs. Fitz-harris, and the King's Letter to the Duke of Ormond, was read, about a Pension in Ireland.*

*Fitz-Harris*. My Lord, if you please, I have something further to say to *Mrs. Wall*. But I desire to ask *Mr. Cowling* a Question, and that is, Sir, What *Mrs. Wall* said to you about my Business ?

*Mr. Cowling*. My Lord, I think, the day after this Man was examined in the Council, I came to *Mrs. Wall*, and she told me, That the second or third night before he was taken, he came to her to bring him to the King ; but she sent down stairs, that she would not let him come up. But asked him, why he did not go to one of the Secretaries of State ? No, said he, I can't go thither without being taken notice of ; but I'll tell you my Business. No, said she, if you will write down your Business, and give it me in a Paper, I will carry it to the King ; and if the King have a mind to speak with you, you shall be sent for. No, said he, I will not do that. Then, said she, I must beg your pardon if I don't bring you to the King. And *Mrs. Wall* said further to me, truly her Blood did chill when she said so, for she was afraid he was come to do the King a mischief.

*Mr. Attorn. General*. This was three or four nights before he was taken.

*Fitz-Harris*. Is *Sir Robert Thomas* here ? (*He did not appear*) Then I desire my Lord *Howard* to stand up.

*Lord Howard*. Have you any thing to say to me, *Mr. Fitz-harris* ?

*Fitz-Harris*. Yes, my Lord, if you please. My Lord, I desire your Lordship will please to tell, what my Lady *Portsmouth* did express to you concerning me, at your coming thither ; and whether I did not introduce your Lordship ; and how civil she was to me upon that account ; and how she undertook to get my Quit-Rent for me.

*Lord Howard*. Sir, I shall answer as particularly as I can all your Questions ; but it will be necessary to introduce my Evidence with the Relation of the whole Transaction. You know, about *October* last, about the beginning of the month, for it was, as I take it, ten days, or a fortnight, before the sitting down of the Parliament, You did make Applications to me, in the Name of the King, whether with or without his privy I cannot say ; but you did make several invitations to me, of putting my self into the possession of an Honour I was altogether unworthy of, of waiting upon the King. I gave you my Reasons why I thought my self unfit for that Honour, because I was not in any capacity of doing the King any Service : And I looked upon the King as a Person too Sacred, and whose Time was too precious to be trifled away upon one that had nothing to offer to Him, and therefore I refused it. But notwithstanding this, was reinforced by you ; and when I still persisted in the denial of that which was an Honour I ought rather to have sought, but only because I thought my self incapable



capable of deserving it. After several Applications, I did at last tell you, besides the impertinency of it, I did also apprehend it might be the occasion of some indecency; for perhaps I might thereby put my self upon declaring my self in some of my Sentiments, very much differing from those of his Majesty. And for me to seek an opportunity to express my Contrariety to his Majesty's Thoughts, would be both rudeness and imprudence; and therefore I did then ultimately answer you, I would by no means be prevailed with. Then you did lower it, and said, It should suffice, if I would wait upon the Dutchess of *Portsmouth*. Truly, I told you, as to that too, you did me a great Honour, and greater than I could expect, for I had nothing (I was afraid) worthy her trouble; and therefore I desired to know what it might mean. In short, you did resolve it into this, That you did find the King under great apprehension, that there was something deep in the Hearts of some, that stood at a distance from his Majesty, and opposite to his Interest; and that the Parliament stood at an irreconcilable difference with the King. Truly, said I, I am a Person not fit to speak in the Name of a Parliament, for in a little time they will speak for themselves; but if I were to speak, or should presume to speak in the Name of the Parliament, or the whole Nation, I should say, I believed the King would find his Parliament meeting him with as great Affection, Duty, and Loyalty, as any Parliament ever met any King of *England*. You said, Then you were confident, and you cited her Grace the Dutchess of *Portsmouth* for it, that the King came to meet them with inclinations to gratify them in any thing they could desire. Then, said I, to what end need I come there, for the Parliament will speak its own Sense speedily. Pray do me that kindness, as to go and satisfy the Dutchess of *Portsmouth*, and to let her know she may now have an opportunity of declaring how willing she is to be a good Instrument between the King and his People. Said you, I can assure you, that she is altogether for the same Interest that you look towards; for you are very much mistaken if you think she is a Friend to the Duke of *York*. My Lord, in short, after much intreaty, I did give my self that honour, which I have no cause to repent or be ashamed of, to go to *Whitehall*, humbly to kiss my Lady Dutchess's hand, and receive her Commands. But when I came there, I was surprized with a greater Honour of finding the King there, and I think it was an opportunity, wherein my time was not ill spent as to my self, but I am afraid this 250 l. if it were given for the bringing me thither, his Majesty doth not think he hath deserved it at this time.

*Fitz-Harris*. Your Lordship came there in *October* last.

Lord *Howard*. Because I will do you all the right I can, it was, as I take it, the beginning of *October*, and about the 10th, because the Parliament sat down the 23d, and as I remember, it was a fortnight before. This was the first time that I owe you thanks for the honour of seeing the King. After that, a matter of ten days, I had a second opportunity, and by your means also. This was the last time I had the honour to see the King, but in publick. After this, I must confess, when the Parliament was ended, I did then, willingly enough, invite my self to the honour of waiting upon the Dutchess, and give her thanks, and tell her, I was sensible she had endeavoured, as much as in her lay, to perswade the King into a good Opinion of the Parliament, and to give them time of Sitting, and thereby to give them opportunity of explaining their Intentions for his Service and Advantage. This was also the last time I had the honour of seeing her. At last, parting from her, I did make it my humble request

request to her, that she would be pleased to represent your Condition to the King, since by your means *I* had the honour to be shewed the way to her Graces Lodgings.

*Fitz-Harris.* My Lord, did not *I* come to you with a Message, the night before my Lord *Stafford* was condemned?

Lord *Howard.* You say right, and it was in my thoughts, and yet *I* thought it too tender a thing to speak of; and therefore *I* thought it so, because, *I* must confess, at that time (you must excuse me) *I* did believe you did not come with that Authority you pretended to make use of. After the time that unfortunate Lord had had his Trial, and the House were preparing their thoughts for the sentence, *I* was indisposed, and came not to the House that day; which provoked the House so much, that they were near committing me to the *Tower*; but truly *I* was so ill in Body, and had so little a mind to have my Vote mixed with his Blood, that perhaps *I* should have run the hazard of going to the *Tower* about it, if that had been all. But the night before you came to me, and told me, as a great Secret, That you did bring it as the desire of the King, and as that which he would take as a great instance of my resignation to his Will and Pleasure, and that for which *I* might promise my self all the greatest kindnesses possible for a Prince to shew to his Subjects, if *I* would go the next day and give my Vote for my Lord *Stafford*. Sir, said *I*, *I* have all the Obligations of Nature and Blood to dispose me, as much as can be, to favour my Lord *Stafford*, as far as can consist with the integrity and sincerity of a Judge; but though *I* was wavering in my own Thoughts the day before, now by the Grace of God *I* will go, though *I* be carried on Mens backs to the House. Now *I* see there is so great an account put upon it, for *I* see 'tis the Concerns, not only of my Lord *Stafford*, but the Protestant Cause; and then, said *I*, If all the Relations *I* have were melted down into my Lord *Stafford*, if *I* had but breath enough to pronounce his Doom, he shall die.

*Mr. Attorn. Gen.* My Lord says, he did not think you came from the King when you came with that Message.

Lord *Howard.* Sir, can *I* do you any more Service? *I* shall be willing to do it if *I* can. *I* cannot deny but *I* had, by your means, the honour of waiting upon the King and the Dutchess, but *I* have so little reason to value my own worth, that *I* cannot imagine how it should turn to the King's Service.

*Dr. Oates.* My Lord, *I* desire to have liberty of going away, the Croud is so great *I* cannot stand, and the Prisoner hath nothing to say to me.

*Mr. Attorn. Gen.* My Lord, that may be part of the Popish Plot, to keep *Dr. Oates* here, to kill him in the Crowd.

*Fitz-Harris.* Have not you something more to say Doctor? truly *I* forget, my memory is so distracted.

*Dr. Oates.* *I* know not, if you have any Questions to ask me, *I* will speak Truth. (But he had none, so the Doctor went away.)

*Mrs. Fitz-harris.* Call Mr. *Fanshaw.* (who did not appear.)

*Fitz-Harris.* My Lady Dutchess of *Portsmouth.*

*Mrs. Wall.* She is not come, because the Court is very full; but if the Court will send for her, she will come presently.

*Fitz-Harris.* My Lord, *I* beg that my Lady Dutchess of *Portsmouth* may be sent for.

*Mrs. Wall.* She gave me Commission to say, If the Court would have her to come, she would so do.

*L. Ch.*

*L. Ch. Just.* We cannot send for her, if she please to come, so, we have no occasion to send for her.

*Mrs. Wall.* I presume he can't ask her no Questions, but what *I* can answer.

*L. Ch. Just.* We will not prejudice the Prisoner in his Questions, nor send for her, unless she will come.

*Fitz-Harris.* Will you send one of your Footmen, *Mrs. Wall*, I am a Prisoner, and have no Body to send. In the mean time, where is the Porter?

*Mrs. Wall.* Here he is.

*Fitz-Harris.* How long is it since you paid the mony to me from my Lady *Portsmouth*?

*Porter.* I cannot tell indeed, 'tis so long since.

*Fitz-Harris.* Let him have his Oath.

*L. Ch. Just.* No, that he can't have.

*Fitz-Harris.* Was it not *Christmass* last was twelve month?

*Porter.* I can't indeed tell what time it was.

*Fitz-Harris.* You dare not speak the Truth.

*Mr. Just. Dolben.* You disparage your own Witnesses.

*Mr. Serj. Jefferies.* He hath no Witnesses can say any thing for him, and therefore he must find fault with what they say.

*L. Ch. Just.* Have you any other Witnesses, *Mr. Fitz-harris*?

*Fitz-Harris.* Yes, my Lord, my Lord of *Arran*.

*L. Ch. Just.* What say you to my Lord?

*Fitz-H.* Did not my Wife shew you this Libel the *Sunday* that I was taken?

*E. of Arran.* I do not remember I ever heard it, till I heard it read in the House.

*Fitz-Harris.* Did you not read it, my Lord?

*E. of Arran.* No, not that I remember.

*Fitz-Harris.* Did not I tell you, I was carrying it to the King?

*E. of Arran.* Not that I know of.

*Fitz-Harris.* Was it not a dispute, whether this was Treason, or not?

*E. of Arran.* You did shew me a Libel, but whether this, or no, I cannot say; perhaps it was this. I took him for an honest Man, my Lord; I have known him five Years, and knew his Family to be a good Family; I happened to be at Dinner with him the day he was taken. After Dinner there were some Papers he pulled out, and I threw them away. I told you, you would do your self a mischief, some time or other, in meddling with such Papers. There we drank a Bottle or two of Wine together, and then we parted. As soon as I came home, I heard this Gentleman was seized on, and taken, which surprized me much. And this is all the account I can give of the Matter.

*Fitz-Harris.* Then your Lordship did not read the Paper?

*E. of Arran.* No indeed not I.

*Fitz-Harris.* Did not I tell you, I had a promise of a Quit-Rent for Secret Service?

*E. of Arran.* I do not know particularly what he told me of the Quit-Rent; but I was willing to do him all the good I could, about a Reversion of a Pension that he had in the Right of his Wife; that was part of my Business that day, and thinking he very well deserved it. I am very sorry to see that his Fathers Son, as the Phrase is in *Ireland*, should be accused of such a Crime.

*Mr. Attorn. Gen.* My Lord, before you go, I desire to ask you one Question; Did you observe ever that he was employed by the *French King*, or the *French Ambassador's* Confessor?

L

E. of



E. of *Arran*. No, my Lord, never as I heard of. He used to speak as honestly as any Man; I thought him of the best and loyallest Principles of any of his Religion.

Mr. Serj. *Jefferies*. What Religion did you take him to be of?

E. of *Arran*. He always owned himself a Papist, and he and I have had some Disputes about it.

*Fitz-Harris*. Mr. Secretary *Jenkins*, I desire to know of your Honour, what the King said of me?

Mr. Sec. *Jenkins*. I remember the King did conjure him, to declare who the Author of the Libel was.

*Fitz-Harris*. You are a Man of Honour, Sir; Did not the King own he had employed me?

Mr. Sec. *Jenkins*. I never remember the King did own he had made use of him, by Mrs. *Wall*'s means, or otherwise.

*Fitz-Harris*. My Lord *Conway*, don't you remember it?

E. of *Conway*. No, not upon my Honour. But I have heard him say, He did formerly imploy you in some trifling Things.

*Fitz-Harris*. Did not the King declare in Council, that I had gotten Mony of him?

E. of *Conway*. That was for my Lord *Howard* of *Esrick*'s Business.

Mr. Serj. *Jefferies*. Now your Lordship is here, I would ask you, Did you ever hear the King declare when he first spoke with the King?

E. of *Conway*. The King never spoke with him till after he was taken; he was taken the 27th of February, and the King never spoke with him till the 28th, the day after.

*Fitz-Harris*. Did not you tell me, if the King did put himself upon the Parliament, they would use him as his Father was used.

Mrs. *Wall*. I never told you any such thing. You promised me to bring in my Lord *Howard* of *Esrick*; but they found themselves mightily mistaken in what was promised he would do when he came in.

L. Ch. *Just*. Why, Mr. *Fitz-harris*, you cast any thing upon any Body to make a noise.

*Fitz-Harris*. Where is Mr. *Peacock*?

Mrs. *Fitz Harris*. I would know of her what Mr. *Bulstrode* said.

L. Ch. *Just*. That every Body may see you are fairly dealt with, you shall have all the liberty that can be given. You must not ask what another said, but call them themselves to say what they know. Here is Mr. *Bulstrode* himself.

*Fitz-Harris*. Mr. *Bulstrode*, then, What Message did you bring from the King to my Wife?

Mr. *Bulstrode*. No Message at all; but I'll tell you what I know. Mrs. *Fitz-Harris*, soon after her Husband came to be close confined, delivered a Petition to the King in the Park; and the King was pleased to give it to me, as he frequently does. Mrs. *Fitz-harris* came to me to tell her what the King said to it. Said I, the King hath given me no commands at all in it, but this, Carry it to the Secretary of State, for I cannot say any thing to it. For the King generally tells me what he will have done with such a Petition. But she was so very importunate, I asked the King again; Sir, said I, Mrs. *Fitz-harris* is very importunate what is Your Majesty's Pleasure in it. Said the King, If she have a mind to Petition the Council, she may, I will neither meddle nor make with it. Afterwards I met her several times, and she said, her Husband was very severely



severely and hardly used, and she was denied the liberty of coming to him. Said I, I hear he is guilty of a very foul Thing, and there is no way to help him, but by discovering the Author of that villanous Libel. For she asked me, what I thought of her Husband; and she told me, she intended to try what she could do for him. I said there was no way to do any good, but to make a full discovery of the Author. Then, said she, if the King would but let me speak with him, I am sure I could do him service, and prevail with him to discover the Author. So I told the King of it; and the King said, If she will come and be examined, with all my Heart. And as soon as ever I heard she was come to Town, I told her what the King said: And she told me she would willingly come; and if the King would give her leave to speak with her Husband, she did not doubt to prevail with him. That night, about midnight, after I was in Bed, and had been in Bed two hours, she came to my door and knocked me up. So I rose, and put on my Night-gown, and went down, and I heard a Voice which I thought was hers. So she came out of the Coach to me, and told me, said she, I am come to you to beg of you, that you would be secret, and not to let the Court know that I was to come to have any Conference with you, for if you do, I am undone and ruined, for there are some Persons, my Friends, that will not look upon me if they hear any such thing. The next morning I went to her, and told her, the King had directed she should be examined in the Afternoon, and she should come down to be examined: Which she did; and as soon as the Council was up, I told his Majesty she was below. So he ordered some to examine her; but when I told her of it, said she, If the King will not speak alone with me, I will not speak a word,\* nor be examined. This is the truth of it, I assure you, my Lord, upon my Salvation.

*Fitz-Harris.* Where is Mr. Peacock?

*Mrs. Fitz-Harris.* What did Mr. Bulstrode say to me?

*L. Ch. Just.* Look you, Mrs. Fitz-harris, and you Gentlewoman, you must not be heard to talk of Discourses amongst your selves, and to examine what discourse passed between Person and Person, up and down; that is not to be permitted in a Court, the Witness is here, ask him himself. What hath been said to her will be no Evidence.

*Mrs. Fitz-Harris.* What offer did you make me?

*Mr. Bulstrode.* None; I told you this would be the way to ruin your Husband.

*Fitz-Harris.* My Lord, I beg of you, may not I ask what he did say?

*L. Ch. Just.* No, 'tis no Evidence.

*Fitz-Harris.* Then call Mr. Henry Killigrew. (*But he not appearing, the Prisoner would have asked what he had been heard to say, but it was not permitted.*)

*Mrs. Wall.* Here is the Footman, Richard Perrot.

*Fitz-Harris.* How long ago is it since you brought the Mony to me from my Lady Portsmouth?

*Perrot.* I never brought any.

*Fitz-Harris.* Was it not he brought the Mony?

*Mrs. Wall.* Ask him.

*Fitz-Harris.* Was my Lord Howard ever at your House before October last?

*Perrot.* I do not know.

*L. Ch.*

E. of *Arran*. No, my Lord, never as I heard of. He used to speak as honestly as any Man; I thought him of the best and loyallest Principles of any of his Religion.

Mr. Serj. *Jefferies*. What Religion did you take him to be of?

E. of *Arran*. He always owned himself a Papist, and he and I have had some Disputes about it.

*Fitz-Harris*. Mr. Secretary *Jenkins*, I desire to know of your Honour, what the King said of me?

Mr. Sec. *Jenkins*. I remember the King did conjure him, to declare who the Author of the Libel was.

*Fitz-Harris*. You are a Man of Honour, Sir; Did not the King own he had employed me?

Mr. Sec. *Jenkins*. I never remember the King did own he had made use of him, by Mrs. *Wall*'s means, or otherwise.

*Fitz-Harris*. My Lord *Conway*, don't you remember it?

E. of *Conway*. No, not upon my Honour. But I have heard him say, He did formerly imploy you in some trifling Things.

*Fitz-Harris*. Did not the King declare in Council, that I had gotten Money of him?

E. of *Conway*. That was for my Lord *Howard* of *Escrick*'s Business.

Mr. Serj. *Jefferies*. Now your Lordship is here, I would ask you, Did you ever hear the King declare when he first spoke with the King?

E. of *Conway*. The King never spoke with him till after he was taken; he was taken the 27th of February, and the King never spoke with him till the 28th, the day after.

*Fitz-Harris*. Did not you tell me, if the King did put himself upon the Parliament, they would use him as his Father was used.

Mrs. *Wall*. I never told you any such thing. You promised me to bring in my Lord *Howard* of *Escrick*; but they found themselves mightily mistaken in what was promised he would do when he came in.

L. Ch. *Just*. Why, Mr. *Fitz-harris*, you cast any thing upon any Body to make a noise.

*Fitz-Harris*. Where is Mr. *Peacock*?

Mrs. *Fitz Harris*. I would know of her what Mr. *Bulstrode* said.

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*Fitz-Harris.* Was my Lord Howard ever at your House before October last?

*Perrot.* I do not know.

*L. Ch.*



*L. Ch. Just.* What use do you make of that?

*Fitz-Harris.* Pray, my Lord, when did you go to my Lady Dutcheffes's? Was it before *October* last?

*Lord Howard.* I think not, I take it as near as I can, it was just before the Session of Parliament.

*Fitz-Harris.* It was ten days before the Session.

*Then my Lady Dutcheß of Portsmouth appeared, and a Chair was set for her.*

*Fitz-Harris.* I am sorry to see your Grace come here upon any such account, but I hope your Grace will excuse me, 'tis for my Life. I desire to know of your Grace, Whether I was not employed to bring several Papers to the King, and among the rest, the Impeachment against your Grace: And thereupon your Grace was pleased to tell me, That it was a great piece of Service to bring those sort of Papers; and if I could find out Men serviceable for that purpose, I should do the King good Service. I told your Grace, I knew one Master *Ezerard*, who knew all the Intrigues, and all the Clubs in the City, and could tell all the designs of my Lord of *Shaftsbury*, and all that Party. And your Grace did encourage me to go on, and I did, by your Grace's Direction, and by your means I came to speak with the King about it.

*Lady Dutcheß.* When must I speak?

*Sir George Jefferies.* Now Madam; And will you Grace now be pleased to stand up.

*Lady Dutcheß.* I have nothing at all to say to Mr. *Fitz-Harris*, nor was concerned in any sort of business with him. All I have to say is, He desired me to give a Petition to the King to get his Estate in *Ireland*; and I did three or four times speak to the King about it. But I have not any thing else to say to him; I never spoke to him about any thing else.

*Fitz-Harris.* Does not your Grace remember what Directions I received about my Lord *Howard*?

*Lady Dutcheß.* I know nothing of that, I sent you not to my Lord *Howard*.

*L. C. Just.* If you will ask any Questions of my Lady, do; but do not make any long discourses.

*Fitz-Harris.* My Lord, my Lady may forget. Madam, does not your Grace remember, you undertook, upon the account of those Papers I conveyed, that you would procure me my Quit-Rent?

*Lady Dutcheß.* I never had any Papers.

*Fitz Harris.* Not that Paper of the Impeachment against your Grace?

*Lady Dutcheß.* No.

*Fitz-Harris.* Upon what account then had I the Money I received?

*Lady Dutcheß.* For Charity.

*Fitz-Harris.* I am sorry your Grace is so much under Mrs. *Wall*'s influence.

*Lady Dutcheß.* I come not here to wrangle with you, Mr. *Fitz-Harris*, I am come here to say what I know, and will not say one bit more.

*Fitz-H.* Have I had any Money of your Grace since you knew my L. *Howard*?

*Lady Dutcheß.* You never had but that for Charity.

*Fitz Harris.* When did your Grace ask it for me?

*Lady Dutcheß.* I do not remember the Time. Mr. *Fitz-Harris*, if I had any thing in the World to do you good, I would do it; but I have it not, and so can't see that I am any ways more useful here. *(Then her Grace went away.)*

*L. Ch.*



*L. C. J.* Mr. *Fitzharris*, have you any more Witneffes that you would have called ?

*Fitzharris*. No, my Lord.

*Mr. Serj. Maynard*. Will you apply them you have called ?

*L. C. J.* Well, have you any thing further to say ?

*Fitzharris*. Yes, my Lord, I have something further to offer for my self : I will tell you what I know, since my Witneffes will not do me justice. Gentlemen of the Jurie, you are my Judges in point of Law as well as Fact, and my Bloud will be required at your hands, if you do not do me right. My Lord, I cannot forbear complaining to the Court of the hard usage I received in Prison, contrary to the Statute of the 31th of his Majesties Reign ; greater oppression hath been done to me than to any before : my Lord *Stafford*, Sir *Thomas Gascoign*, and others, had all the libertie they could desire, to enable them to make their defence against their Trial ; which I have had denied me. But my defence consists of two heads, and I shall relie upon the Consciences of the Jurie for the issue : though my Lady *Portsmouth*, and Mrs. *Wall*, and the rest, are pleased to say, that I was not employed, nor received money for secret services, yet 'tis very well known I did so. As to Mr. *Everard*, when I met with him, though now he hath made it a French storie, yet if he would tell the truth, he knows that it was otherwise : he told me he was well acquainted with my Lord of *Shaftsbury* and my Lord *Howard*, and in several Clubs of the Citie he knew all their Intrigues ; and that Speech that went by the name of my Lord *Shaftsbury's*, my Lord gave it him before it was printed, and he several other things of that kind. So then I told him, it was a business of the greatest consequence that could be, if he would continue those Discoveries. And whereas he says, I would betray the People to the French Interest, it is very well known I was always an Enemy to the French Interest ; but I humoured him in his discourse, and discoursed him to reduce the Paper that he accuses me of under some heads ; and that Paper I no sooner had, but I came to *Whitehal* with it : And though he said he was to have fortie Guinnies, and so said Sir *William Waller* too, yet it was onely fortie shillings that he desired for his povertie I would lend him. And as to what he talks of three thousand Crowns Pension, it is a very unlikely business. When I came to *Whitehal*, I was advised to go to my Lord *Clarendon*, or Mr. *Hide*. Accordingly I did shew it to a Gentleman who was to give it to my Lord *Clarendon*, but before he could get to him, I was taken. Now, my Lord, I hope what I did was with a designe to serve the King in discovering what was designed against him, according as I was employed, though both the Secretaries are so unkind as not to declare it ; when I know I am in the right, I am not ashamed to speak it, though my life be losed upon it, and I refer it to the Gentlemen of the Jurie : I was taken before I could come to the speech of my Lord *Clarendon*. Next, I hope, Gentlemen of the Jurie, you will consider these are great Persons that I have to do with ; and where great State-matters are at the bottom, it is hard to make them tell any thing but what is for their advantage : and so I am left in a sad condition. But, my

Lord, in the next place, I think 'tis impossible for any Jurie to find me guiltie, without prejudging of those Laws which are not to be judged by any Jurie or inferiour Court: for if they judge me and bring me in guiltie, 'tis murder in them; and let the Bench tell them what they will, 'tis of that dangerous consequence, that it overthrows the Government. My Lord, here is the Impeachment of the House of Commons, and here is a Copie of the Votes of the Commons thereupon; and though they be not Laws, yet they are such Declarations of the Parliament, as that afterwards no other Court ought to meddle with that matter; and the inferiour Courts do not use to meddle with Parliament-matters: and so, Gentlemen, you will lay at your own doors what would lie at theirs, if you meddled not. For though the Court have over-ruled my Plea, yet the matter is plain before you now who are my Judges, and my Bloud will lie at your doors, and you must answer it if you do me not justice. And there is no insufficiencie of a Plea, as to matter of Law, will excuse you in point of Fact; and you are obliged, as you will answer the contrarie to God and your Consciences, to do me right. And I hope your Lordship and the Jurie will take particular notice of this: I have been a close Prisoner and had no manner of help, nothing at all allowed me to refresh my memorie; which if I had had means to do as I ought, I could say a great deal more: But this I insist upon, If the Gentlemen of the Jurie do bring me in guiltie and convict me, they do shed my Bloud, and overthrow the Law and course of Parliaments: Whereas if they bring me in not guiltie, my Impeachment stands good still, and I am liable to answer that Impeachment before the Parliament; and I hope you will consider the persons I have had to deal with, and that it cannot be made so plain as in matters wherein we deal with common persons. I submit to what you shall think fit.

*L. C. J.* You have done, Mr. *Fitzharris*.

*Fitzharris*. My Lord, I have done; onely I would examine one Gentleman if he were here, but he does not appear. But here's a Copie of the Impeachment and Votes of the House of Commons, I desire I may deliver them to the Jury.

*L. C. J.* No, no; that can't be.

*Fitzharris*. Sir *William Waller* does declare upon Oath, That for this very thing I was impeached by the House of Commons; and that I desire them to take notice of.

*Mr. Serj. Jeffries*. Therefore you are not guilty: Is that the consequence?

*Mr. Soll. Gen.* May it please your Lordship, and you Gentlemen of the Jury, you have heard our Evidence, and what the Prisoner hath said. The Crime for which he is accused, that is High-Treason, and 'tis Treason in conspiring the death of the King, in endeavouring to raise Rebellion here, and that in order to destroy the King and the Liberty of all the People, and bring them under the slavery of the King of *France*. This is the Treason he was indicted for; and the proof of this Treason is very full; it is proved to you by three positive Witnesses, and all men of credit, of whom you cannot

not have the least suspicion. They prove to you, that *Mr. Fitz-harris* is the man guilty of this Treason; he was the contriver of it, he was the mover of it first to *Mr. Everard*, and he gave him those instructions to pursue those purposes of raising a Rebellion here, in order to destroy the King, by contriving a seditious Pamphlet to set the people together by the ears; and he came to him in order to perfect this Libel. This is proved by *Everard*, who upon the first motion of it to him, did acquaint *Mr. Smith* immediately and *Sir William Waller* that such a design was on foot, and desired them to come and be Witnesses of it. They both came, and heard the communication between the Prisoner and *Mr. Everard* to contrive such a Libel as hath been opened to you, and they swear it positively. Now what defence does the Prisoner make to it? Truly I cannot say whether it have more of folly or impudence in it; for 'tis a defence of a strange nature, for it is inconsistent with it self, and shews what a make he is of; and the latter part is a pursuing the same Treason he stands indicted for, which is the rendring the King odious to his people, by those insinuations that he did this by the Kings order. The first part of his Defence is, I am not guilty, for *Mr. Everard* is the man that did contrive it, and he is the Author, and it moves from him. Now pray consider the parts of your Evidence, and see if there be any possibilitie for you to be induced to believe any thing like it. 'Tis proved by *Mr. Everard* positively, that he came to him first; and when you consider this Objection that is made by *Mr. Fitz-harris*, and consider on the other side who were the Witnesses, and who is the man that makes the Objection, you will then see no cause in the world for you to give any credit to it. The Prisoner says he was trepan'd into it; for that, pray consider he is an *Irish* Papist, one that hath all along made it his business to defame the proceedings about the Popish Plot, to ridicule it, to deny that there was ever any such thing, and to laugh at the Justice that was executed upon the Popish Offenders who died for the Plot. The Witnesses that prove it against him have been zealous prosecutors of the Plot, men that have discovered many of those who were guilty of it, and brought them to Justice; men that have been material Evidences upon the discoverie. *Mr. Smith* is a man that spoke materially in the Trial of my Lord *Stafford*, and for which service, I believe, the Papists, and *Mr. Fitz-harris* himself, owe him little thanks. As for *Sir William Waller*, all men know how busie and active he hath been to bring in men that were guilty of the Plot, and he hath suffered for it. Now if you can believe that *Mr. Smith* and *Sir William Waller* should be guilty of a Trepan that was to be put upon *Fitz-harris*, a man of that perswasion you hear of, (and you must believe that, or you cannot believe the defence the Prisoner makes) I leave it to you. *Mr. Everard* could do nothing alone, why then *Sir William Waller* must be guilty of this contrivance, and of setting of *Fitz-harris* on work and *Everard* too; But this is so unlikely a storie, that if there were any to assert any such thing, you could not possibly give any credit to it. But when you consider what hath been proved, and what hath been shewed you  
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under the hand of *Fitz-harris* himself, then there is no room I am sure to doubt. They do positively swear, both *Smith* and Sir *William Waller*, they heard him own that he had given instructions to *Everard*. They prove to you that he mended this Libel in several places, they not coming up to the Instructions he had before given. They prove part of the Libel written with his own hand, and that is Treason enough; for that is certainly Treason, That 'tis the undoubted right of the people to dethrone the King. I never heard of that doctrine any where but among the Papists, and 'tis a Papist that preaches that Doctrine to you now. As this is an Evidence in a matter beyond any contradiction in the world, his own hand-writing of part, and his owning the giving the Instructions; so there is no room in the world for you to believe that ever he was drawn into this by *Everard*; or that he was the man that was the original Contriver of it, and trepan'd him into it. But it appears plainly upon the proof, that it moved originally from *Fitz-harris*; that it was the malice of his heart that promoted it; and that the contrivance was how to raise a Rebellion here. For when he had read part of the Libel, and *Everard* told him that it was Treason, why, said he, I meant it so; and the more Treason, the better; the more odious you make the King to be, the more likely 'tis to raise the people into a Rebellion; and the sooner you raise the people into a Rebellion, the more like you are to accomplish the design of bringing the people into slavery to the *French* King, and so at once to destroy all Libertie and Propertie, and all that is sacred. No body can believe but Mr. *Fitz-harris* is guilty of this Libel and Contrivance to dethrone the King, and raise a Rebellion here, as the Witnesses have sworn. Now as you cannot possibly doubt but this moves from Mr. *Fitz-harris*, so then consider the inconsistency of the second part of his Defence, and the impudency of it too. For as before he pretended he was drawn into it by Mr. *Everard*, so now he would make you believe he did not do it out of a traiterous designe, for that he was employed about these affairs; and this comes under the Title of Secret Service; and he would fain have it that you should believe the King should hire him to raise a Rebellion against himself, to defame himself, and to incense the minds of the people against him. And this must be the service that he is put upon; he had no traiterous intent in himself, but he was to trepan all the Lords that stood zealously up for the Protestant Religion and Property, and that by direction from whom? from the King, whom *Fitz-harris* would have all people to believe to be a Papist; and he would have people believe that he is an innocent man, that he was onely employed upon such a special piece of service; that the King should be at great pains to employ Mr. *Fitz-harris* to destroy himself and the whole Nation, and to stain his whole Family; and upon what reasons would he have you to believe it? As first, you observed how inconsistent it is with the former part of his defence, that he was trepan'd into it; now he did not do it from Mr. *Everard*, nor with a treasonable intention. But certainly this is a Treason that nothing can be said to palliate or excuse,



cuse, and I am sure he hath said nothing will do it. Yet all the defence he hath made has tended that way: for though he have not arrived to the confidence to say such a thing is, yet he hath insinuated by the method of his proceedings, that he would fain have such a thing believed, and that the man had no traiterous designe in it. Now what Evidence hath he produced for it? He hath produced to you Evidence that he hath had money from the King, and hath been sometimes at the Dutchess of *Portsmouth's*. That he had money from the King is true, but it little became him to mention it, for it was charity to relieve a man in necessity that was ready to starve, and was forced to go all the ways to work he could to move compassion; he urged the sufferings of his Wives Father; you heard the Petition read as a ground for supply; and he hath so far prevailed upon the Kings Charity (which he hath abused) as to have a sum of money given him, and he hath had the benefit of it; but he hath made a very ill return for it; for the thanks he hath given to the King for this his Charity, is to flie in the face of him, his Familie, and the Government: he hath endeavoured to raise a Rebellion, and when he is brought to his Trial, he continues to defame the King, which is an aggravation of his Treason if possible. And now having no proof in the world for these malicious insinuations, and all the Witnesses that he hath called to make out what he would fain have believed, and dares not mention, (not proving any such thing) you will have little reason, Gentlemen, to believe any thing that comes from him, especially if you consider the nature of the Libel it self, it is impossible this man should ever be set on work to contrive such a thing as this, to defame the King and all his Family, to raise a Rebellion, to overthrow all Religion, Liberty, and the King himself; it is impossible to be believed. But I fear I press too much upon you, as if I did suspect there could be men in this Kingdom so bad as to believe such a malicious insinuation. Gentlemen, I leave it to you; you hear what our Evidence is, three Witnesses that positively swear this Treason against the Prisoner. Now as you have this positive Evidence on the one side, so you have no colour of Evidence to the contrary; and 'tis impossible for you not to find him guilty. It is to deny the light of the day; and 'tis a thing of that consequence, that all Ages, when they hear of it, will say that there is no Justice to be had, if an English Jury do not find a Verdict according to their Evidence. For what security hath a man for his Life and Estate, if twelve substantial men of a Jury shall dare to go against plain and full Evidence? 'Tis all the security an English-man has, for all he enjoys, that he is to pass through the hands of twelve honest men of his own Country. And if it be possible for a Jury to go against Evidence so plain as this is, I say, no man is safe in his Life or Estate.

*Mr. Serj. Jefferies.* Gentlemen, I desire to take notice of what *Mr. Fitzharris* was pleased to conclude withal. He says, his Blood is to be required at your hands; and therefore he would fain by that means insinuate you out of your Consciences. But I think if you consider the circumstances that have been given, and all the Evi-

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dence,

dence, it will be impossible for men that have any respect to their Credit and their Consciences, to acquit this Gentleman. In the first place, it is known, and it hath been given in proof to induce the probability of the matter evidenced against the Prisoner at the Bar, that he is a known Roman Catholick; they are all Protestants, and good Protestants; and you are all Protestants too. And then the case goes thus far further; You that are Protestants must take it upon your Oaths, that these Gentlemen have sworn false, and convict them of wilful Perjurie; and if you do convict them, it must be upon the bare Allegation of a Papist: And I hope never to live to see the day that men that are of good Credit, and Protestants, shall by an Allegation (though never so confidently affirmed at the Bar) be presumed to be guiltie of Perjurie. So that I say, my Lord, besides the baseness and venome of this impudent Libel, which certainly no honest man in the world will give the least countenance to, here is Evidence enough from himself; and you cannot believe it proceeds from any direction from the Crown (as this man would insinuate,) and therefore he hath given us the greatest Evidence by his libelling at the Bar: and he hath not onely libelled the Crown, but he hath called up some Witnesses on purpose to libel the rest of his own. And then I hope you will take notice how he did insinuate with Mr. *Everard* at the beginning; When you were in the *French* King's service, said he, and have been neglected ever since you left it: If you will come and joyn with me, without peradventure you may get encouragement fitter than that poor and mean way that you are reduced to by embracing the Protestant Interest. He gives him a method likewise to walk by: he thought him the person that had writ some Pamphlets before; and therefore was fit for his purpose, and ought to be encouraged. And he does tell you the words not onely against the present Government, but that which every good Protestant must needs abhor and tremble at; he bids him take care to libel the whole Familie. He tells him withal, You must be sure to say that the late King of blessed memorie was concerned even in the *Irish* Rebellion; and that this King hath promoted those persons that his Father had countenanced for that Action: and he tells him the names of those persons that were so promoted. After this is done, what does Mr. *Everard* do? he goes and makes a Discoverie: He tells the circumstances and the persons, to whom, when: And the persons he made that Discoverie to, do in every circumstance agree with time, place, and all. The first night this appointment was, I hope you will remember, that when Mr. *Everard* had so placed that Gentleman against whom there is not the least word said or imagined to finde fault with him, he takes notice of the Instructions; owns that he had given him instructions; and takes particular notice of one passage, That when Mr. *Everard* said, But there may be danger in them, is not this Treason? the Prisoner made answer, The more Treason the better. Aye, but then this is dangerous, how shall I venture upon such matters? Why have you not my hand in it? I am as guiltie as you, and in as much danger. What then was the Reward? there was to be at present fortie Guinies, and an annual Pension; but to whom was Mr. *Fitzharris* to discover this? not to the King,  
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but to the *French* Embassadour, and the Confessor was to be the man that was to give the Reward; *Flanders* was first to be subdued, and the parts beyond the Seas, and then *England* would be but a morsel for them, they could take that in the way. All this was done, which is plainly sworn by Witnesses that had a place made a purpose for him to over-hear all that passed. And, my Lord, for the next Witness there is *Sir William Waller*; there is this, besides what is sworn, agreeing in circumstance: He tells you both, to their very Money, that it was fortie somewhat, but he cannot say Guinies; and he tells you something of the Pension, a great many thousand Crowns; and he tells you particularly of that circumstance of the *French* Confessor and the *French* Embassadour. Besides all this, does not *Sir William Waller* tell you this very thing, That he espied him with a Pen and Ink, that he gave a Note of the Libel it self, and he heard him give the directions? and when he came into the Room, he saw the Ink fresh upon the Paper; and when he heard him give directions for the alteration of particular words, he said, You have not worded it according to my mind in such and such particular places. But, my Lord, there is this Venome in it further to be taken notice of, That he gave his instructions to draw it so, as that it might best take effect according to his intention: for when *Mr. Everard* thought it might do well to make it with *thou* and *thee*, as though it should be the designe of the Quakers, he said, No, by no means; but put it in changing the phrase, as if it was the designe of all the Protestant Dissenters; and so by that means would draw the *Odium* upon them, and bring them in danger as well as others. And this is confirmed too by *Sir William Waller*; so that in every circumstance he hath shewed the venome of his design. But in the last place, which surely the Gentlemen of the Jury will not forget what *Sir William Waller* said, That *Fitzharris* did say, I have taken care already to disperse abundance of Libels amongst our Partie: And when *Everard* told him of a Libel that was some while before, he said, He had seen that a great while ago, and there might be somewhat in it to the purpose. And for the Answer that hath been given to it, my Lord, I think it does not bear any sort of relation to the Charge that is upon him: for whatsoever discourse, or whatsoever he hath urged, is not much to his purpose. He hath brought here a Noble-man; but after all, I would put him in mind of one thing that Noble-man said, He did believe he came to him in the name of one that sent him not: and so will every body say that hath heard the Evidence; for all his Witnesses do positively deny that they ever knew of any such matters as he speaks of. And now, my Lord, I could be very glad if this Gentleman (instead of saying as he hath said) would have come as soon as he had this Libel from *Everard*, and discovered it immediately to some-body himself before he had carried it on, as *Everard* did before the thing was perfected. And so, Gentlemen, we do think upon this Evidence we have left you without all manner of excuse, it being impossible, upon such a proof as this is: and considering the nature and venome of the Libel it self, the base venomous malicious instigations he made use of to effect it, and the

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ends for which it was done, to bring in the *French* to set us together by the ears, to render the King odious to his People; and the person 'tis acted by, a known *Irish* Papist; I cannot doubt of the issue: and I do hope when I see so many honest Gentlemen and Protestants at the Bar, they will be loth to forfeit their own Souls to eternal damnation, to save a man that is guiltie of such a Treason as this.

*L. C. J.* Have you done, Gentlemen?

*Sir Geo. Jefferies.* Yes.

*L. C. J.* Then look you, Gentlemen of the Jurie; Here is Mr. *Fitzharris* indicted for Treason against the King, and 'tis for endeavouring to take away his life, to make him odious to his Subjects, to incite them to a Rebellion, and to raise Arms here in this Kingdom against our King our Sovereign. And by the Indictment it is said that he hath declared these Endeavours and these Intentions, by causing a scandalous and evil Pamphlet or Libel to be written, with an intent to be dispersed through the Kingdom. The words of the Libel you have heard particularly read; some of them are taken out and mentioned in this Indictment. Mr. *Fitzharris* hath been arraigned, and hath pleaded Not guiltie; and you are to trie the single matter before you, whether Mr. *Fitzharris* be guiltie of this Treason. That this is Treason, and contains a treasonable matter, Gentlemen, is so plain, as no body living can doubt it: But it is a Treason of as high a nature as peradventure ever was in the Kingdom of *England*, and tends as much to that which would be the destruction both of the King and Kingdom. The King's life, all our lives, all we have that is dear to us, or of any advantage or avail in the world, are concerned in this. For what does it tend to? It tends to a popular insurrection, to raise the people up in Arms, that like a Deluge would over-run and sweep away all. It is to undo the Government and all Order in the Kingdom, and to destroy the Life and Being of all that is good amongst us. Amore virulent and villanous Book certainly was never written; nor any thing that tended more to Sedition, or to incite the people to a Rebellion: such a Book as peradventure no well-govern'd Kingdom ever heard of the like. It tends to defame the King and all his Ancestors, and to blast all that shall come after him, to raise us into a Tumult. And what is all this to do? to settle the Roman Catholick Religion amongst us. And this is such a piece of the Art of the Jesuits, which peradventure hath out-gone all they have done before. It seems to be their hand directly, and we are all concerned as English-men to take care of such Villanies. This is the nature of the Treason that is comprised in this Book. Whether Mr. *Fitzharris* was the Author, or Director, or Contriver of this Book, is the Question before you. (For plainly (without any suppose) the Book contains in it as high a Treason as ever was.) And as to that, Gentlemen, you must consider that this appears evidently to be a designe of the Roman Catholick Partie; 'tis a Jesuitical designe: for this is that they aim at, to confound all things, that they may fish in troubled Waters. And you see they have found out an apt Instrument, an *Irish* Papist, one that hath been all-along continually concerned with them, and intermeddled in several of these Plots and Papers.



pers. Gentlemen, the Evidence that is given here against him is by three persons, and there is great Evidence from the matter that is produced, besides those persons. There is Mr. *Everard* does declare to you the whole of this, and Mr. *Fitzharris*'s application to him to write this Book. He tells you the intention of it, and he gives you the very grounds upon which this was to be written; that is, to raise Sedition, that was the first instruction; to raise a Sedition in the Kingdom, and this was to busy us at home, that the *French King* might get *Flanders* and the *Low Countries*, while we are confounded at home: and then the Catholics have their Game to play, and carry all before them. Look you, Gentlemen, Mr. *Everard* is so cautious, that he walks not alone in the Case, but with a great deal of prudence declares it to others, that they may be Witnesses in the case for him. Mr. *Smith* does agree in all things for the first night that Mr. *Everard* hath declared, how that he heard the directions owned as given by Mr. *Fitzharris* for the writing this Book, and he heard the designe of it, he heard there was a Reward promised to him for the doing of it, and he tells you some of the instructions. The next night Sir *William Waller* was present; and he tells you all the instructions of that night, and that *Fitzharris* owned them, that he gave those instructions in the private Consult. But that that is not to be answered, Gentlemen, is his own instructions in writing; what can be said to that? If you were doubtful of the Credit of these Gentlemen, yet Mr. *Fitzharris*'s own instructions in writing under his hand, are an Evidence beyond all controul in the world that he gave those directions; and these are Treason, that is plain. And therefore it does seem to be as strong an Evidence against Mr. *Fitzharris* of this Treason, as peradventure ever was given against a Traytor. There is not any one Witness that stands single, but there are two to each night; and his own instructions written by himself do not stand upon the Evidence of a single Witness, for he owned it in the presence of three Witnesses: So then a stronger Evidence cannot be given that he was the Author and Director of this Book.

Then, Gentlemen, you must consider what he says for himself in excuse of this horrid Treason that these Witnesses seem so fully to fix upon him. The first Witness he brings is Dr. *Oates*, and he does tell you, That having some discourse with *Everard*, *Everard* should say, this was a designe of the Court, and was to be put into some Lords, and I think into some Parliament-mens pockets; and then they were to be apprehended. I think this is Dr. *Oates*'s Testimony. Mr. *Everard* is here upon his Oath, and he testifies no such thing in the world: 'Tis easie for one to come and say, I heard a man say so; perhaps he said it by way of conjecture; but that is no Answer to direct proof. Mr. Sheriff *Cornish* is the next Witness, and he says, He had some discourse with the King, and the King should say, He thought Mr. *Fitzharris* had been an honest man, and had given him some money.

Mr. Sheriff *Cornish*. No, my Lord, the King said he took him to be an ill man.

L. C. J. Then it seems I was mistaken; his Majestie did not tell him

him he took *Fitzharris* to be an honest man, but an ill man. But that he had formerly some money of the King upon pretence of doing him some service, now that brings it out what the Kings meaning was: For it seems there had been begg'd some money for him, and the King at my Lady *Portsmouth's* desire, by way of charitie, gave him some little matter of money; he boasting and telling the King he could do him some service. You see what manner of service it is he would have done for Him and the Kingdom. Then as to all the rest of his Evidence, there is Mrs. *Wall* and my Lady *Dutchess* of *Portsmouth*; and he hath examined them concerning the money he hath received, and they both declare upon what ground that money was given: It was given, they tell you, for a Gratuitie from the King to him; and upon his boasting, says Mrs. *Wall*, that he could do the King service, and bring over persons to his interest. I think there is no other Witness very material: For as for Mr. *Bulstrode's* Evidence, it signifies nothing at all; it is not material for him or against him in the case: A discourse about delivering a Petition to the King from his Wife. Now, Gentlemen, you must consider what ill use this Gentleman designs to make of the Kings charitie and favour to him; he gave him some money to relieve his Wants, and now would he interpret this and insinuate this to be given for ill purposes, for to make him trepan his Subjects; which is another piece of virulencie that these Papists always exercise against the King; they always make an ill use of his best actions, and an ill interpretation of them. For, Gentlemen, can it be believed that the King would ever designe such a thing as this is, to blacken his Family for ever, to stir up all his Subjects against him, to endanger his Crown and Kingdom, and all that he has in the world? And all this to what purpose? No colourable designe can be made of it. This is such a thing to excuse such a Villany, as never was heard of, by wresting the Kings charitie and generositie to such ill purposes; but that some men have the confidence to do any thing. I must leave it to you. Here are three witness his own hand to these instructions, and his making a Declaration that it was not treasonable enough, nor virulent enough. All these things are strong Evidences in the Case. And if you believe these Witnesses and his own hand-writing, 'tis a plain case you must find him guilty.

*Fitz-harris.* May I have libertie to speak one word?

*L. C. J.* Gentlemen, I had forgot one thing. For fear it make an impression in you, because I see he hath inculcated it often and often, and that is, the Impeachment that was by the Commons House of Treason against Mr. *Fitz-harris* in the Lords House. I must tell you, Gentlemen, that is not before you at all; the matter of that was by way of abatement pleaded to the jurisdiction of this Court, and that is now over. You must have no consideration, nor can have any consideration of that now. Your question is not whether we have authority to trie this Cause, but you are impannell'd and sworn to one point, and that is, whether *Fitz-harris* be guiltie of this Treason or not: Whether the Court have authoritie to do it, is another question proper for our determination,  
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and we have determined it ; but there is nothing of that lies before you in this Case. Therefore you must not be misled with any thing that he talks so fondly of concerning the Impeachment, or concerning his blood lying at your doors, that surely will signify nothing to men of understanding at all.

*Mr. Johnson.* My Lord, 'tis our unhappiness to come before you under these circumstances. We have understood there is a Vote of the Commons of *England* in Parliament, that says this man shall not be tried in any inferior Court ; now we take our selves to be the Judges of this man in part under your Lordship's directions.

*Mr. Serj. Maynard.* You are not Judges of it, you are onely to try the fact.

*Mr. Johnson.* I onely offer my sense, and if the other Gentlemen think otherwise they will speak it. I think the office of a Juror is such, that it is within his power to acquit or condemn according to the Evidence as it lies within his own Conscience. Now if we should acquit this man, (we have no assurance we shall acquit him, onely suppose it) then there is nothing against him but what lies in a Parliamentary way, and we shall forejudge their Cause. Therefore, I say, I do not know how far by Law we are compellable to give a Verdict in this Case upon him.

*L. C. J.* Look you, Gentlemen, we would consult your satisfaction as much as we can in all things ; and 'tis reasonable that if you have any doubts you should propose them to us, and to that purpose we are to give you satisfaction, and will in all things. I must tell you, as to the Jurisdiction of the Court, that is not at all before you ; and as to the Vote of the House of Commons alledged by him, if any such there be, that cannot alter the Laws of the Land, nor justify any of us in departing from our duties, no more than if a Letter or Mandate should be gained from the Prince or chief Magistrate of this Kingdom to any of us in derogation of Justice, (as it's possible by surprize to be) we are to take notice of the one, no more than the other. We are upon our Oaths to do Justice according to the Laws of the Land : You likewise are upon your Oaths, and sworn to do Justice in your Sphere ; and your Oath is, That you shall enquire truly whether he be guilty or not ; and if he be guilty in your Judgments, you can no more spare him than you can condemn an innocent person. It never was pretended by any man, nor will it be asserted by any man that understands himself or the constitution of the Government of this Kingdom, that a Vote of the House of Commons can change the Law of the Land. It cannot excuse us, if we deny to try a man that is brought before us ; nor will it excuse you, being under an Oath, justly to try him. If you should (because the Commons House have voted that he shall not be tried) declare that man innocent, who in your own Judgment you believe to be nocent ; You nor we are not to consider what will be the consequence of this, if this man be acquitted or condemned ; that is not before us. You and we too are tyed precisely to the Laws of the Land, and by that Law must this man be judged.



judged. As to our parts, we must do it as to the Law, and you as to the Fact. But I'll tell you further, Gentlemen, this doubt was moved to us by the Grand Jury, before the Bill was found; we had an intimation that they would move such a doubt to us as seems to be your doubt now. Therefore for their satisfaction, and the taking away any scruple that might be in the case, all the Judges of *England* did meet together, and seriously debate the matter and substance of all this; and it was not our Opinion of this Court onely, but the Opinion of all the Judges of *England*, That we had a Jurisdiction to try this man. This we have told you, because we would satisfy all men to go on fairly in the things that are before them. Therefore that being put out of the case, you must consider of your Verdict, and give it in upon this Tryal.

Mr. *Johnson*. We do not doubt, my Lord, but your Opinion in this case will indemnify us from any future Charge by the Commons of *England*. But it lies before us to consider what we are bound to do in the case.

Mr. *Just. Jones*. Gentlemen, I suppose you do not doubt but we are all of the same Opinion. It is no marvel indeed to hear a man that stands in *Fitzharris's* place, to object any thing that may cast a mist before your eyes. And yet it cannot but be wondered at too, that when three Protestant Witnesses have sworn precisely, he should have the confidence to urge any thing of this nature; he who appears by the Indictment it self, and the proofs made upon the Indictment, to have endeavoured to destroy all the Laws of *England*, all *Magna Charta*, all our Liberty and our Religion, and to enslave us to the King of *France*: for that appears plainly the design, if you have any credit to the Witnesses that are produced: He that would have pulled down all that is sacred amongst us, is so zealous for the Authority of the House of Commons. We have all of us a great reverence for the House of Commons, and for their Opinions; but as my Lord hath told you, so I tell you my Opinion, That a Vote of the House of Commons does not in the least sort alter the Law: for indeed if it did, it were to give a Legislative power to the Commons, which does onely belong to the King, the House of Lords, and the Commons together. And, Gentlemen, though Mr. *Fitzharris* says, If he be acquitted here by you, yet he should remain to be questioned again in Parliament; there is no man in the world can doubt, if he were acquitted here, and were questioned in Parliament, but he would say, He hath been upon his legal Tryal by his Peers, and that he hath been acquitted by his Peers upon solemn Evidence. But, Gentlemen, you are to consider what is your business: Your Office is to be Jurors, not to be Judges; you are not to take upon you any such Authority. Your Commission is your Oath, and by that Oath you are sworn to inquire whether the Prisoner be guilty, as he is indicted, or not: If you, as English-men, can say he is not guilty, let it lie upon your Consciences, and the danger of the King's Blood and Life be upon you.

Mr. *Just. Dolben*. Gentlemen, I desire to speak one word to you, to let you know I am of the same Opinion with my Lord, and with my



my Brother; and I cannot but wonder at you for making this scruple: for if there were any thing in what you have said, it concerns us that are Judges, and not you at all; for 'tis a matter of Jurisdiction: and whether we have a Jurisdiction or not, we must satisfy our selves that we have a Commission to do it; it concerns not you. Do you but consider the Oath you have taken, That you will well and truly trie, and true deliverance make betwixt our Sovereign Lord the King, and the Prisoner at the Bar, according to your Evidence: And you have sworn a true Verdict to give upon it, and do you now scruple whether you should give any Verdict or no, when but even now you have sworn you will give a Verdict? If any such thing as this had been in your heads, (for it might be then in your heads as well as now) why did not you speak of it before you took your Oath? You now lie under the obligation of an Oath to give a Verdict according to your Evidence, and would you acquit him against such an Evidence as hath been given? For besides what Sir *William Waller, Smith, and Everard* have deposed, the very Note sworn by Sir *Philip Lloyd* and Mr. *Bridgman* to be owned by *Fitzharris* as his hand, contains Treason enough in it, if there were no more: Therefore there must be something more in it, than for the sake of such an unreasonable scruple.

*Mr. Just. Raymond.* I am of the same opinion, truly.

*Mr. Johnson.* My Lord, I took the liberty to speak it now; I could not speak it before: for I was not then to inquire what I was to be sworn to, nor could I know what would be the matter that would come before us, till we were sworn. Therefore I humbly beg your pardon that I made the Motion.

*L. C. J.* We are not at all troubled at any thing you have said; do not mistake us, we do not take it ill from you that you acquaint us with your Scruples: We are ready to give all satisfaction we can, to any that are concerned before us; therefore we are no way troubled that you made any such Scruple, but have given you a fair Answer to it.

*Mr. Johnson.* My Lord, I desire a Note of the Names of the Jury.

*L. C. J.* Give it him, Mr. *Astrey*, or else the Croud is so great he may not know them.

*Then the Jury withdrew for half an hour, and at their return being called over and appearing, the Clerk took the Verdict.*

*Cl. of Cr.* *Edward Fitzharris*, hold up thy hand. (*which he did.*) Look upon the Prisoner; How say you, is he Guilty of the High-Treason whereof he stands indicted, or Not guilty?

*Foreman.* Guilty, &c.

*L. C. J.* I think you have found a very good Verdict, and upon very full and strong Evidence.

*Mr. Soll. Gen.* Will your Lordship please to give Judgment?

*L. C. J.* We will take time for that.

*Mr. Soll. Gen.* Will you give a Rule to have him brought up to morrow?

*L. C. J.* Move us another day for it.

*Fitzharris.* My Lord, I hope I may have the liberty of my Wife and some Friends now to come to me,

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*L. C. J.*

*L. C. J.* Any Friend I think may come to you: but, *Mr. Fitzharris*, you must be modest in the using that liberty we give you. You have heretofore abused your liberty; I do not love to exasperate things to one in your circumstances, but you must be prudent and careful, knowing your own condition, that you do nothing prejudicial to the King or Kingdom.

*Upon Wednesday June 15. 1681. Edward Fitzharris was brought to the Bar of the Court of Kings-bench, to receive his sentence.*

*Mr. Att. Gen.* My Lord, I humbly pray your Judgment against *Mr Fitzharris*, who is convicted of High-Treason.

*Silence proclaimed during Judgment.*

*Cl. of Cr. Edward Fitzharris*, hold up thy hand. Thou hast been indicted and arraigned of High-Treason, and hast thereunto pleaded Not guilty, and for thy Trial put thy self upon God and thy Countrie, and thy Countrie have found thee guiltie: What canst thou say for thy self, why Judgment of Death should not be given against thee, and Execution awarded according to Law?

*Fitzharris.* My Lord, I think it will be prejudicial to the Kings service, that Sentence should pass before I have made an end of the Evidence I have given in against my Lord *Howard*.

*L. C. J.* *Mr. Fitzharris*, we can take no notice of any thing of that nature. When you are asked what you can say why Judgment should not pass against you, it is, What legal matter you have, what matter in Law, to excuse your self from that Judgment? For this is nothing, the saying you are to give Evidence; we know nothing of that, it will not delay Judgment a minute. And for what you say it will be prejudicial to the Kings service, it is the King that prays Judgment against you by his Attorney.

*Fitzharris.* I beg the Kings mercie for Transportation, my Lord.

*L. C. J.* We can do nothing in that.

*Fitzharris.* Nor to give me time before my Execution? I can say no more, my Lord.

*L. C. J.* Look you, *Mr. Fitzharris*, you have been here indicted for a very great and hainous Treason, a Treason that is in truth of the first magnitude; for it is a Treason that tends to the rooting up the whole Government of this Kingdom, and the destroying of us all; plainly, both of the King and of all his Subjects. It does not onely destroy the Peace and Quiet, but it tends in truth to the utter destruction of the whole Kingdom, and to bring us into a Confusion and Disorder, never to be avoided or retrieved, if your Designes should have taken effect. You have been here arraigned, and put your self upon the Countrie, and they have found you guiltie of this Treason: it is a thing you should well consider; for certainly, you have contracted to your self a mightie Guilt in such a thing as this is. You have endeavoured the destruction of the King, and in such a way as must have in truth destroyed all his good Subjects together with him. Your designe hath been to excite the People to a Rebellion, and a Popular Insurrection, that would have swept away all like a Deluge, if it had taken effect. In truth it is a Treason against all mankind, the stirring up of the People is; it is of evil example to all mankind,  
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the stirring up of the People against their natural Lord, to whom we owe all Allegiance and Obedience. But your designe in this was by setting the People of *England* together by the ears, to bring in the Roman Catholick Religion upon such as should be left. It seems you are an *Irish* Papist, and sucked in very ill principles where you have lived; and you have here endeavoured to do as much mischief in this Kingdom by that treasonable Book, as lies in any one mans power perhaps to do. It is a mercie and a happiness, that it hath pleased God in his providence to deliver us out of your hands; for this was your designe, if you could have brought it about: But it hath pleased God now to bring you to Justice for it, and the Judgement of the Law must pass upon you. Now that Judgment is this: You must return to the *Tower* from whence you came, and from thence you must be drawn through the Streets of the City of *London* to *Tyburn*; there you shall be hang'd by the Neck, but cut down before you are dead; your Bowels shall be taken out and burnt before your face, your Head cut off, and your Body divided into four Quarters to be disposed as shall please the King; and I pray God to have mercie upon your Soul, to give you a sight of your sin, and repentance for it.

*Fitzharris*. My Lord, I hope I may have the libertie of my Wife to come to me, and any friend.

*L. C. J.* You have that liberty already.

*Fitzharris*. No, not without the presence of a Warder.

*L. C. J.* We will not restrain them as to that, let them come to you.

*Officer*. There is no Rule of Court for it, my Lord.

*L. C. J.* We will not restrain any thing of your Wife's coming, there is no Rule to restrain her; but let him have that liberty that other Prisoners in his condition usually have had in the *Tower*, his Wife to come to him, or any other Friend or Protestant Minister whatsoever.

*Officer*. Pray let it be put into the Rule of Court, my Lord.

*L. C. J.* We make no Rule, there does not need any. Look you, Mr. *Fitzharris*, we lay no restraint upon your Wife or any other Friend; but if your Wife be in another condition that she can't come to you, we can't meddle with that.

*Mr. Just. Jones*. We are not to deliver her out of Prison.

*L. C. J.* No, we make no Rule, but take off the hands of the Court from restraining any one to come to you.

Then the Prisoner was taken away, and in pursuance of this Sentence, the last day of the said *Trinity*-Term, being the 22th of *June* 1681. a Writ issued out of the Court of *Kings-bench* directed to the Lieutenant of the Tower of *London*, reciting the Judgment, and commanding him to deliver the Prisoner to the Sheriff of *Middlesex* upon Friday the first day of *July* next following, to be executed according to the Sentence. Which Writ followeth in these words.



CAROLUS Secundus Dei gratia Angl. Scot. Franc. & Hibern.  
 Rex fidei Defensor, &c. Loc. tenen. Turris nostræ London. salutem. Cum nos in Cur. nostra coram nobis consideraverimus quod Edwardus Fitzharris nuper de Parochia S. Martini in Campis in Com. Midd. Gen. pro quibusdam altis prodicionibus unde ipse coram nobis Indictat. est, & superinde per quandam Juratam Patrie inde inter nos & prefat. Edwardum capt. convict. & attinct. existit, de Turr. nostra London. per medium Civitatis nostræ London. pred. usq; ad Furcas de Tyborne trabatur, & super Furcas illas ibidem suspendatur, & vivens ad terram prosternatur, ac interiora sua extra ventrem suum capiantur, ipsoq; vivente comburentur; Et quod caput ejus amputetur, quodq; corpus ejus in quatuor partes dividatur, & quod caput & quarter. ill. ponantur ubi nos ea assignare voluerimus: Ideo tibi precipimus firmit. injungend. quod die Veneris primo die Julii prox. futur. apud Tower-hill cum Vic. Midd. convenias, & pred. Edwardum Fitzharris eidem Vic. Midd. deliberari facias, ut idem Vic. executionem de eo in forma pred. fieri faciat, pront inde nobis respondere volueris. Teste Francisco Pemberton apud Westm. xxij<sup>o</sup> die Junii, Anno Regni nostri xxxiiij<sup>o</sup>.  
 Per Cur. ASTRY.

And another Writ at the same time issued out of the same Court, directed to the Sheriff of *Middlesex* to receive the Prisoner from the Lieutenant of the *Tower* at the time appointed, and to execute him according to the Sentence. Which Writ was in these words.

CAROLUS Secundus Dei gratia Angl. Scot. Franc. & Hibern.  
 Rex fidei Defensor, &c. Vic. Midd. salutem. Cum nos in Cur. nostra coram nobis consideraverimus quod Edwardus Fitzharris nuper de Parochia S. Martini in Campis in Com. Midd. Gen. pro quibusdam altis prodicionibus unde ipse coram nobis Indictat. est, & superinde per quandam Jur. Patrie inde inter nos & prefat. Edwardum capt. convict. & attinct. existit, de Turr. nostra London. per medium Civitatis nostræ London. pred. usq; ad Furcas de Tyborne trabatur, & super Furcas illas ibidem suspendatur, & vivens ad terram prosternatur, ac interiora sua extra ventrem suum capiantur, ipsoq; vivente comburentur; Et quod caput ejus amputetur, quodq; corpus ejus in quatuor partes dividatur, & quod caput & quarter. ill. ponantur ubi nos ea assignare voluerimus: Ideo tibi precipimus firmiter injungen. quod cum Loc. tenen. Turr. nostræ London. pred. die Veneris primo die Julii prox. futur. apud Tower-hill convenias, & ipsum Edwardum Fitzharris de prefat. Loc. tenen. recipias, & Executionem de eo in forma pred. facias pront decet. Teste Francisco Pemberton apud Westm. xxij<sup>o</sup> die Junii Anno Regni nostri xxxiiij<sup>o</sup>.  
 Per Cur. ASTRY.

All which was accordingly performed on the day, and at the place appointed.

FINIS.

THE





THE  
TRYAL  
AND  
CONDEMNATION  
OF  
Dr. Oliver Plunket  
Titular Primate of  
IRELAND.

**T**HE Third of May 1681, in *Easter*, 33 *Car. Secund.*  
*Reg.* Dr. Oliver Plunket was Arraigned at the King's-  
Bench-Bar for High-Treason, for endeavouring and  
compassing the Kings Death, and to levy War in *Ire-*  
*land*, and to alter the Religion there, and to intro-  
duce a Forreign power: And at his Arraignment, before his Plea, he  
urged for himself, that he was Indicted of the same High-Treason  
in *Ireland* and Arraigned, and at the day for his Tryal the Witnesses  
against him did not appear, and therefore he desired to know if he  
could be tried here for the same fact? The Court told him, that by  
a Statute made in this Kingdom, he might be Tryed in the Court of  
R Kings-

*Kings Bench*, or by Commission of *Oyer and Terminer* in any part of *England* for Facts arising in *Ireland*, and that this Arraignment there (he being never tried upon it) was not sufficient to exempt him from being tried here; because till a Tryal be passed, and there be a Conviction or Acquittal thereupon, an Arraignment, barely, is no Plea: For in such Cases the party is not put Twice in danger of his Life, which only is the thing the Law in such Cases looks after to prevent. He then desired time for his Witnesses, which they told him he could not do till after Plea pleaded; whereupon he pleaded *Not Guilty*, and put himself upon the Country for his Tryal; and after some consideration had about time to be allowed him to bring his Witnesses from *Ireland*, the Court appointed the day for his Tryal, to be the first *Wednesday* in next Term, which was full Five Weeks time.

And accordingly on *Wednesday* the 8th of *June*, in *Trinity* Term, he was brought to his Tryal, and Proclamation, as in such Cases is usual, being made, it proceeded thus.

*Cl. of Cr. Oliver Plunket* hold up thy hand, those good men which thou shalt hear called and personally appear, are to pass between, &c.

*Plunket*. May it please your Lordship, I have been kept close Prisoner for a long time, a year and an half in Prison; when I came from *Ireland* hither, I was told by persons of good repute, and a Councillor at Law, that I could not be tried here; and the reasons they gave me were, that first the Statute of *Hen. 8.* and all other Statutes made here, were not received in *Ireland*, unless there were an express mention made of *Ireland* in them: So that none were received there but such as were before *Poyning's Act*. So I came with that persuasion that I could not be tried here, till at my Arraignment your Lordships told me it was not so. and that I must be Tried here, though there was no express mention made of *Ireland*. Now, my Lord, upon that, whereas my Witnesses were in *Ireland*, and I knew nothing of it, and the Records upon which I very much relye were in *Ireland*, your Lordship was pleased to give me time from the 4th of the last Month to this day; and in the mean time, as your Lordship had the Affidavit here yesterday, and as Captain *Richardson* can testify, I have not dispatched only One, but Two to *Ireland*, into the Counties of *Armagh*, *Dublin*, &c. and where there were Records very material to my defence; but the Clerk of the Crown would not give me any Copy of any Record at-all, unless he had some express Order from your Lordship: So that whether it were that they were mistaken, or wilfully refused, I could not get the Records which were very material for me. For in some of those Records some of those that accuse me were convicted of high Crimes, and others were Outlawed and Imprisoned, and broke Prison; and there were other Records also of Excommunication against

against some of them, and I could not get the Records, unless your Lordship would instruct me in some way or other, how I can get over them that are most material for my defence. The Servants that I sent hence, and took Shipping for *Ireland*, were Two days at Sea, and cast back again, and from thence were forced to go to *Holly-head*, and from *Holly-head* in going to *Dublin* they were Thirteen or Fourteen days, the Winds were so contrary; and then my Servant went about to go into the County of *Armagh* and *Derry*, that were a Hundred miles from *Dublin*, and *Meath*, and other places; so that in so short a time, my Lord, it was morally impossible for them to have brought the Witnesses over; and those that were ready to have come, would not stir at-all, unless they had a Pass from hence, because some of them were *Roman Catholics*, and they had heard that here some were taken Prisoners that were *Roman Catholics*, and that none ought to come without a Pass; and they being Witnesses against the King, they might be clapped up here, and brought into very ill condition: so they sent one over that made Affidavit.

*L. C. J.* It was the Affidavit was read here yesterday.

*Plunket.* So that, my Lord, I conceive your Lordship will think I did it not out of any intent to put off my Tryal, for Captain *Richardson* is here, who knows that I writ by the Post, and desired them to come with the Pacquet-Boat, and they writ over to the Captain after they were Landed; so that I depended upon the Wind and the Weather for my Witnesses, and wanted your Lordships Order for the Records to be brought over, and that their Examination might be brought into Court, and their own original Examination here might be compared with it. So I humbly beg your Lordships favour, the Case is rare, and scarce happens in Five hundred years, that one should be in my circumstances. I am come here where no Jury knows me, nor the quality of my Adversaries; If I had been in *Ireland* I would have put my self upon my Tryal to morrow without any Witnesses, before any Protestant Jury that knew them and me. And when the Orders went over, that I should be tryed in *Ireland*, and that no *Roman Catholick* should be upon the Jury, and so it was in both the Grand and other Jury; yet then when I came to my Tryal, after I was Arraigned, not one appeared: This is manifest upon the Record and can be proved.

*L. C. J.* There was no prosecution of you there.

*Plunket.* But, my Lord, here is no Jury that knows me, or the quality of my Adversaries; for they are not a Jury of the Neighborhood that know them, and therefore my Case is not the same with other Cases. Though I cannot harbor, nor do not, nor will not, nor ought not, the least concept of hard measure and injustice; yet



yet if I have not full time to bring my Records and Witnesses altogether, I cannot make my defence. Some were there then, some afar off, so that it was a miracle that in Six or Seven Counties they could do so much as they did: But they got in Seven or Eight of them, yet there were Five or Six wanting: Therefore I beseech your Lordship that I may have time to bring my Records and Witnesses, and then I will defie all that is upon the Earth and under the Earth to say any thing against me.

*L. C. J.* Look you, Mr. *Plunket*, 'Tis in vain for you to talk and make this discourse here now; you must know, that by the Laws of this Kingdom, when a man is Indicted and Arraigned of Treason or Felony, 'tis not usual to give such time; 'tis rare that any man hath had such time as you have had, Five Weeks time to provide your Witnesses: If your Witnesses are so cautious, and are such persons that they dare not, or will not venture for fear of being apprehended, or will not come into *England* without such and such cautions, we cannot tell how to help it: we can't furnish you with Witnesses, you must look to get your Witnesses your self; If we should stay till your Witnesses will come, perhaps they will never come here, and so you will escape out of the hands of Justice. Do not be discouraged in this, the Jury are Strangers to you peradventure, but they are honest Gentlemen, and you shall have no other upon your Jury; and you may be confident, that if there be not some Fact proved against you, that may amount to Treason, you shall be discharged; they are persons that understand so much, and we will direct them so much. You shall have as fair a Tryal as if you were in *Ireland*; but for us to stay for your Witnesses, or send you back to *Ireland* we cannot do it: Therefore you must submit to your Tryal. We heard your Affidavit yesterday; and we did then tell the Gentlemen that moved it, as much as we tell you. You are here to be tryed, look to the Jury as they are called, and except against them if you will.

*Plunket.* My Lord, I desire only to have the favour of time, some time this Term.

*L. C. J.* We can't do it.

*Cl. of Cr.* Swear Sir *John Roberts*.

*Plunket.* I humbly present this to your Lordship, I am then in eminent danger of my Life, if I cannot get Ten days to have my Witnesses over: I desire I may have but to the One and Twentieth of this Month, and then if they do not come you may go on.

*L. C. J.* We cannot do it, you have had Five Weeks time already.

*Plunket.*

*Plunket.* I desire but a few days.

*Cryer.* Sir *John Roberts*, take the Book, look upon the Prisoner; You shall well and truly try, &c.,

*Plunket.* My Lord, I desire to know whether they have been of the Juries of *Langhorn*, or the Five Jesuits, or any that were condemned?

*L. C. J.* What if they have? that is no exception.

*Then the Jury was sworn, whose Names follow.*

Sir <i>John Roberts</i> ,	{ <i>Thomas Earsby</i> ,
<i>Thomas Harriott</i> ,	{ <i>John Hayne</i> ,
<i>Henry Ashurst</i> ,	{ <i>Thomas Hodgkins</i> ,
<i>Ralph Bucknall</i> ,	{ <i>James Partherich</i> ,
<i>Richard Gowre</i> ,	{ <i>Samuel Baker</i> ,
<i>Richard Pagett</i> ,	{ <i>William Hardy</i> .

*Cl. of Cr. Oliver Plunket*, hold up thy Hand. You of the Jury look upon the Prisoner and hearken to his Charge.

**H**E stands Indicted by the Name of *Oliver Plunket*, late of *Westminster*, in the County of *Middlesex* Dr. of *Divinity*. for that he as a false Traytor against the most Illustrious and most excellent Prince our Sovereign Lord, *Charles the second*, by the Grace of God, of *England*, *Scotland*, *France* and *Ireland* King, and his natural Lord, the fear of God in his heart not having, nor weighing the duty of his Allegiance, but being moved and seduced by the instigation of the Devil, the cordial Love, and true and due natural Obedience, which true and faithful Subjects of our said Sovereign Lord the King, towards him our said Sovereign Lord the King do and of right ought to bear, utterly withdrawing, and contriving, and with all his might intending the Peace and common Tranquillity within the Kingdom of *Ireland*, as also of this Kingdom of *England* to disturb, and War and Rebellion against our said Sovereign Lord the King in the Kingdom of *Ireland*, then being the Dominion of our said Sovereign Lord the King in parts beyond the Seas, to stir up and move, and the Government of our said Sovereign Lord the King there

to subvert, and our said Sovereign Lord the King from his Regal Power and Government there to Depose and Deprive, and our said Sovereign Lord the King, that now is, to Death and final Destruction to bring and put, and the true Worship of God within the said Kingdom of Ireland, by Law established and used, to alter to the Superstition of the Romish Church; the first day of December, in the year of the Reign of our Sovereign Lord Charles the Second, now King of England, &c. the two and thirtieth, and divers other days and times, as well before as after, at Dublin in the Kingdom of Ireland in parts beyond the Seas, with divers other false Traitors unknown, traitorously did compass, imagine and intend the killing, Death and final Destruction of our said Sovereign Lord the King, and the antient Government of his said Kingdom of Ireland to change, alter, and wholly to subvert, and him our said Sovereign Lord the King, that now is, from the Crown and Government of his Kingdom of Ireland aforesaid to Depose and Deprive, and the true Protestant Religion to extirpate, and War and Rebellion against our said Sovereign Lord the King there to move and levy. And to fulfil and accomplish his said most wicked Treasons, and Traitorous compassings, imaginations and purposes aforesaid; he the said Oliver Plunket, the said first day of December, in the aforesaid Two and thirtieth Year of the Reign of our said Sovereign Lord the King, that now is, with Force and Arms, &c. at Dublin, in the Kingdom of Ireland, then being the Dominion of our said Sovereign Lord the King in parts beyond the Seas, Maliciously, Devilishly and Traitorously did assemble and gather together himself, with divers other Traitors unknown, and then and there devilishly, advisedly, maliciously, subtilly and traitorously did consult and agree our said Sovereign Lord the King, that now is, to Death and final Destruction to bring, and from his Crown and Government aforesaid to Depose and Deprive, and the Religion of the Romish Church into the Kingdom of Ireland aforesaid to introduce and establish; and the sooner to fulfil and perfect his said most wicked Treasons, and Traitorous Imaginations and Purposes, he the said Oliver Plunket with divers other false Traitors unknown, then and there advisedly, maliciously and traitorously did further consult and agree to contribute, pay and expend divers great Sums of Money to divers Subjects of our said Sovereign Lord the King, and other persons unknown, to procure them the said persons unknown, our said Sovereign Lord the King, that now is, Traitorously to kill, and the Romish Religion into the said Kingdom of Ireland to introduce and establish. And that he the said Oliver Plunket and other Traitors unknown, afterwards, to wit, the said first day of December, in the Two and Thirtieth Year of the Reign of our said Sovereign Lord the King aforesaid, at Dublin aforesaid, in the Kingdom of Ireland aforesaid, within the Dominion of our said Sovereign Lord the King, with Force and Arms, &c. unlawfully, maliciously, devilishly, and traitorously did receive, collect, pay and expend divers great Sums of Money to divers persons unknown, to perswade and induce divers other persons also unknown, the said false Traitors in their said Treasons to help and maintain, against the Duty of his Allegiance, and against the Peace of our said Sovereign Lord the King, that now is, His  
Crown



*Crown and Dignity, and against the form of the Statutes in that Case made and provided. To this Indictment he hath pleaded, Not Guilty.*

Mr. *Heath*. May it please your Lordship, and you Gentlemen of the Jury, This is an Indictment of High-Treason against Dr. *Oliver Plunket* the Prisoner at the Bar, and it sets forth, that the Two and thirtieth year of the King, at *Dublin* in the Kingdom of *Ireland*, he did compass and imagine the Death of the King, and to deprive the King of his Kingdom of *Ireland*, and to raise War to extirpate the Protestant Religion in the Kingdom of *Ireland*, and to establish the *Romish* Religion there. And it sets forth further, That for the accomplishment of these Treasons, the Defendant with several others did meet together at several places at *Dublin* in the Kingdom of *Ireland*, and elsewhere, and at these several meetings did consult and agree to put the King to Death, to raise War, to extirpate the *Protestant* Religion, and set up the *Romish* Religion. And the Indictment further sets forth, that to accomplish these Treasons, the Defendant did raise great Sums of Money in the Kingdom of *Ireland*, and did get several persons to contribute several Sums for these Treasons; and that the Defendant with others did disburse several Sums of Money to several persons, to persuade them and entice them to be aiding and assisting in these Treasons, and to recompence them for them. To this Indictment the Defendant hath pleaded, Not Guilty. If we prove these things, you are to find him Guilty.

Mr. Serj. *Maynard*. My Lord, We will quickly come to the Evidence. But in short, You have heard his Charge is as high as can be against the King, and against the Nation, and against all that is good. The Design and endeavour of this Gentleman was the Death of the King, and the Destruction of the *Protestant* Religion in *Ireland*, and the raising of War: And to accomplish this, we charge him, that there was a Confederacy made, Assemblies and Consultations had to these ends, and raising Money to accomplish it. Gentlemen, Dr. *Plunket* was made as we shall prove to you, as they there call him, Primate of *Ireland*, and he got that Dignity from the Pope upon this very Design. He did by Vertue of that Power, which he thought he had gotten, make out Warrants, Significations, I know not what they call them, to know how many men in *Ireland* could bear Arms from Sixteen to Forty; he raises Taxes upon the People and the Clergy there. But, My Lord, the particulars will best fall from the Witnesses that we shall call and prove it by, and we need not make any aggravation; for such a thing as this cannot be more aggravated than 'tis.

Mr.

Mr. Att. General. May it please your Lordship, and you Gentlemen of the Jury, the Character this Gentleman bears, as Primate under a Forreign and Usurped Jurisdiction, will be a great Inducement to you to give credit to that Evidence we shall produce before you. We shall prove, that this very Preferment was confer'd upon him upon a Contract, that he should raise Sixty Thousand Men in *Ireland*, for the Pope's Service, to settle Popery there, and to subvert the Government. The Evidence that we shall give you, will prove how it leads to destroy the King, and I take it according to the resolutions that have been, to raise War in the Kingdom, and to introduce a Forreign Power, will be certainly Evidence of an Attempt and Machination to destroy the King. As soon as he was in possession of his Primacy, he goes about his work. There are two great necessities to be provided, Men and Money. For men, having this great Spiritual Jurisdiction, whereby, indeed, all that are under it are become Slaves, he issues out his Warrants to all the Clergy of *Ireland*, to give an Account, and make Return from the several Parishes, of all the men in them above Fourteen and under Sixty. And Returns were accordingly made by them, that he might accordingly take a measure what men to pick out for the Service. The next thing was Money, My Lord; and your Lordship takes notice, that when the Mind is enslaved, the Purse, nay all the Body bows to it. He issues out his Warrants to his Clergy; to make a Collection of Money, in all parts great Sums were Levied, and when they were Levied, we shall give you an accompt by our Proofs, that several Sums were issued out, and sent into *France* to further the Business. There was also provision made of great Ammunition and Arms, and we shall prove in particular, several delivered out by this Gentleman's Order, to carry on this thing; and to go through stich with this business, he takes a view of all the several Ports and places in *Ireland*, where it would be convenient to land: For they were to have from *France* an Auxiliary Force, and upon his view he pitched upon *Carlingford* as the place. We shall prove the several Correspondencies between *Rome* and him, and *France* and him, and several Messengers employed, and Moneys issued out from time to time for their maintenance. This will be the course of our Evidence; and we shall begin first with some that do not speak so particularly to this Doctor, but prove there was a general Design in all parts of the Kingdom of *Ireland*, to bring in the King of *France*, and extirpate the Protestant Religion: And then we shall call the particular persons to the particular Facts against him. First we call *Florence Wjer*.

[Who was sworn.]

Mr.

*Mr. Soll. Gen.* Are you sworn, Sir?

*Wyer.* Yes, Sir.

*Mr. Soll. Gen.* Pray give the Court and the Jury an account of what you know of any Plot in *Ireland*, to introduce the Romish Religion, or to bring in the *French King*.

*Wyer.* Yes, I know there was a Plot, both before *Plunket's* time, and in his time; for it was working in the years 65, and 66. but it was brought to full maturitie in the year 1667. For then *Col. Miles Rely*, and *Col. Bourne* was sent to *Ireland* from the King of *France*, with a Commission to muster as many men as he could, promising to send an Army of 40000 men with a Commission, upon *St. Lewis* day in *August* next following, to land at *Carlingford* to destroy all the true Subjects, to destroy the Religion as it was established there, and to set up the *French King's* authority and the Roman-Catholick Religion. And one *Edmond Angle* that was a Justice of peace and Clerk of the Crown, sent for all the Rebels abroad in the North to come up into the County of *Longford*, and they marched into the head-Town of the County and fired the Town; the Inhabitants fled into the Castle: then they came up to the Goal, thinking to break it open, and by setting the Prisoners free, to joyn them with them; but then *Angle* was shot, received a deadly wound, and dropt off his Horse, and they fled. So then when they were without the Town, one *Charles Mac Canell* alighted, and took away all the Papers out of his Pocket; which if they had been found, would have discovered all. This occasioned *Col. Bourne* to be suspected; and being so suspected, he was taken Prisoner, and turned to *Newgate* in *Dublin*. Then *Col. Riley* fled away again to *France*, and the Plot lay under a Cloud during the life of *Primate Raley* the Prisoner's Predecessor. This *Primate Raley* died beyond Sea. Then many of the Popish Religion would have had the Primacie conferred upon one *Duffy*; but the Prisoner at the Bar put in for it; which might have been opposed, if the Prisoner had not engaged and promised that he would so manage affairs, that before the present Government were aware, he would surprize the Kingdom, provided the Pope and King of *France* would send a competent Armie to joyn with theirs for the effecting of it. So the first Year of his coming over, I was in the Frieriez at *Armagh*: I was an acquaintance of the Friers, and they invited me. And one *Quine* told the Prisoner, that they thought *Duffy* would have been Primate. Said he, 'Tis better as it is; for *Duffy* hath not the wit to do those things that I have undertaken to do; meaning that he did undertake to supplant the Protestant Religion, to bring in Poperie, and put the Kingdom under subjection to the King of *France*.

*Mr. Soll. Gen.* How do you know that?

*Wyer.* Those were the words, and in the meaning I knew before, because I had heard it talked of.

*L. C. J.* Who was the first of these Primates you speak of?

*Wyer.* *Edmund Raley*. He set this business on foot first.

*L. C. J.* About what?

*Wyer.* About calling the Rebels together out of the North when they came to *Longford*.

*L. C. J.* What Year was that?

*Wyer.* It was in the year (67.)



L. C. J. When died he?

Wyer. He died a little while afterwards.

L. C. J. Then *Duffy* would have it conferred upon him?

Wyer. Yes, after *Raley's* decease he would have had it conferred upon him; and there was a contention between him and the Prisoner, who did engage he would bring things to that full maturity, that before the present Government were aware he would do the work.

L. C. J. How do you know this?

Wyer. I know this, because I had an account of it from certain School-fellows that were with me in *Ireland*, then studying in *Rome*; they wrote this to me, desiring me I would take a good heart with the rest of my Country-men, and assuredly in a short time the Kingdom would be relieved, and the Irish restored to their former patrimonies.

L. C. J. This you speak of their information. What do you know of your own knowledge?

Wyer. All that I know is, he coming into the Friery of *Armagh*----

L. C. J. About what time?

Wyer. It is either 10 or 11 years ago, and there was a Fast there, and I was invited by the Friers, being their acquaintance; one *Quine*, one of the Friers told him----

L. C. J. Told whom?

Wyer. The Prisoner, that he did expect *Duffy* should have been Primate; but the Prisoner made answer, 'Tis better as it is; for *Duffy* had not the wit to manage the things that I have undertaken for the general good of our Religion.

L. C. J. Now tell me this: What things were those he had undertaken? did he explain himself?

Wyer. No further than those words: But I did conceive this was his meaning; because I knew partly of it my self, knowing of the former Plot.

L. C. J. I ask you onely what words came from him; and you say they were, That *Duffy* had not the wit to manage what he had undertaken for the general good of their Religion.

Wyer. Yes; and then again in his Assemblie, kept by him, he charged his inferiours to collect such several sums of money as he thought fit, according to the several Parishes and Dignities, to assist and supplie the *French* Forces when they came over.

L. C. J. How know you that?

Wyer. I have seen the Money collected; and I have seen his Warrant *sub pœna suspensionis* to bring it in, to redeem their Religion from the power of the English Government. Again, there were those Rebels that went to *Longford*----

L. C. J. What time were those Collections?

Wyer. From time to time since he came into *Ireland*.

L. C. J. About what time?

Wyer. 9 Year, 8 Year, 7 Year ago, and the last Year of all.

L. C. J. Then it was several times, you say?

Wyer. Yes; and he procured the *Macdonels* a piece of money out of the Exchequer, pretending to do good service to his Majestie; but he sent them for *France*, meaning they should improve themselves, and bring themselves into favour with the King of *France*, and come o-

ver

ver with the *French King* to surprize *Ireland*. This one of the said Rebels told me. So I have seen the Prisoner's Letter directed to the grand Torie *Flemming*, desiring that they should go to *France*, and he would see them, in spite of all their Enemies, in *Ireland* safe alhoar. And *Flemming* should return again a Colonel, to his own glory, and the good of his Country.

Mr. Att. Gen. Do you know his hand?

Wyer. Yes, I do, as well as my own. I have seen Capt. *O Neal*, Son of General *O Neal*, coming every Year into *Ireland*, and carrying three Regiments to the *French King* into *France*; and he used to come over to *Ireland* every Year to get a recruit; and he did get my Brother to go with him, and so much importun'd me, that I could hardly withstand him; but I did not yield to his desire: He told me it was to improve me for my good; to improve my self in Military Discipline, and then I should return for *Ireland* a Captain under the *French King*, to surprize the Kingdom and settle the Popish Religion, and then I should be restored to my Estate.

L. C. J. Who told you this?

Wyer. Capt. *O Neal*. And in the mean while, says he, I hear Dr. *Plunket* is the onely man entrusted in *Ireland* to make these preparations, and get things ready against the *French King's* coming, who is to land at *Carlingford*.

Mr. Att. Gen. How often were you in the Doctor's company?

Wyer. Not very often.

Plunket. I never saw him with my eyes before in all my life.

Wyer. I have seen him in the Priory the first year that he came over to *Ireland*; and you know the meetings held at *George Blykes* house in the *Fives*; and I have seen him in his own house.

Mr. Just. Dolben. How come you to know the Prisoners hand?

Wyer. Because I was well acquainted with his hand, seeing his hand amongst the Priests.

Mr. Just. Dolben. Did you ever see him write?

Wyer. Yes, in the Priory, and in his own house.

Mr. Just. Dolben. How often?

Wyer. Not often.

Mr. Just. Dolben. How often?

Wyer. Ten or a dozen times: I should know his hand from all the writing in *London*, if it were among never so many. Let me but see it, I will know it.

L. C. J. Have you ever heard him own himself Primate?

Wyer. Yes, my Lord, he writes himself *Oliverus Armacanus Primas & Metropolitanus totius Hiberniæ*, that is his Stile.

L. C. J. Who did he say made him Primate?

Wyer. The Pope, my Lord.

L. C. J. Have you heard him say so?

Wyer. Yes, I heard him discourse of it in the Priory.

Mr. Att. Gen. He was a publick Officer, and they might well know his hand.

L. C. J. I believe any body that hath seen us write but a little, would soon know our hands.

Wyer. His hand is as well known over *Ireland*, as mine is among my acquaintance.

L. C. J.

L. C. J. Well, go on.

Wyer. During the time of his Imprisonment, I have seen his Commands to some of his inferiour Dignitaries, commanding them *sub pœna suspensionis*, to bring in the monies assessed for bringing in the *French* Armie; and that there was no better time than the time of his imprisonment to bring it in.

L. C. J. Who were they, you say, that were commanded *sub pœna suspensionis*?

Wyer. Since his taking, I have seen in the time of his Imprisonment his Commands to his inferiour Dignitaries, not to be forgetful of the Monies that were assessed towards the supplying the *French* Army; and that there was no better time to bring in the *French*, than when he was in prison.

L. C. J. How long ago was that?

Wyer. The first of *February* (79.) The second and last of it was in *July* and *November* last.

L. C. J. And this was to bring in the Money?

Wyer. Yes, to supplie the *French* Armie. And that there was no better time than during his imprisonment, and they should not be so much suspected.

L. C. J. And these Mandates you have seen under his hand?

Wyer. Yes, I have, my Lord.

Mr. Att. Gen. What do you know of his summoning or issuing out these Warrants for Lists of men?

Wyer. I have not seen any of the Warrants; but the Priests have told me they were commanded by his Warrants to let him know how many there were in all their Parishes from 16 to 60.

Mr. Att. Gen. You say you never saw the Mandates?

Wyer. No, I did not.

Mr. Serj. Jefferies. What do you know about the Prisoner's viewing the Ports?

Wyer. I have seen him going about from Port to Port, to *Derry*, to *Carrikerfergus*, *Castle Down*, and *Carlingsford*, and all about.

Mr. Serj. Jefferies. When he went to take a view of those Ports, can you tell to what purpose he did it?

Wyer. Yes, I heard it among the Church, That he went on purpose to view the Sea-ports to know the strength of all the Garrisons, and to see which was the most convenient way to bring in the *French* Army.

Mr. Serj. Jefferies. Did you ever speak with the Prisoner at the Bar about his going? Wyer. No.

Mr. Serj. Jefferies. What place did he pitch on as most convenient?

Wyer. *Carlingsford*.

Mr. Att. Gen. Were you in the Prisoner's companie when he viewed the Ports?

Wyer. I have seen him go to and fro; I did not go all the Circuit round with him.

Plunket. Did you ever see me at *Carlingsford*? Wyer. No.

Plunket. Did you ever see me at any other of the Ports?

Wyer. I have seen you at *Hamiltons* coming back from *Derry*. Do you not remember that you lodged at at Sir Geo. ?

Plunket. I never lodged there in my life.

Sir. Fra. Withings. Have you any thing more to say concerning the Plot in general? Wyer.



*Wyer.* No, in general I have not.

*Mr. Serj. Jefferies.* He hath not onely given an account of the general, but fixed it upon the Prisoner.

*Mr. Att. Gen. Dr. Plunket,* will you ask him any questions?

*Plunket.* You say you remember you saw me at my first coming as Primate ten Years ago, and that you were at the Priory when I was there? *Wyer.* Yes.

*Plunket.* You were invisible to me.

*L. C. J.* If you will ask any question, do; but do not make these kind of observations.

*Plunket.* Tell me this, Why did not you acquaint some Justice of the peace then with what you knew, that which you had heard 7 years ago?

*Wyer.* When I first knew it, I was as willing to have it conceal'd as they.

*L. C. J.* What is your question, *Dr. Plunket*? pray tell it us.

*Plunket.* He says, my Lord, that ten years ago I had such a design in hand, and he knew the money was collected for these very ends, and he knew of the design from that same Capt. O Neal whom I employed and sent abroad; and that I had a design to bring in the French at Carlingford, and went about to all the Ports in Ireland, and pitched upon that as the most convenient; and yet it is so inconvenient for the bringing in a forein Force, that any one that knows any thing of the Maps of the world, will easily conclude it otherwise. But, I say, my Lord, why did not he tell some Justice of the peace that I was upon such a design, but let me live in Ireland ten years after, and never speak of it till now?

*L. C. J.* What say you to the Question?

*Plunket.* When he saw me all the time, and to the time of my taking Prisoner, and never said one word; for I was a Prisoner six months onely for my Religion, not one word of Treason spoken of against me for so many years: why did not he acquaint some Justice of the peace with it before?

*L. C. J.* What Religion were you of then?

*Wyer.* I was a Roman-Catholick.

*Plunket.* And are you not so now? *Wyer.* Yes, I am so.

*Mr. Just. Dolben.* Therefore it will be no wonder that you did not discover it.

*Mr. Serj. Jefferies.* But I ask you, Why did not you discover it all this time?

*Wyer.* Because I was a Papist my self: The first that did discover it, he and I did consult about it, I had charged him so to do, and I set him on work; but he was ill paid for having discovered it: you got him to be trepann'd, that he hath gone in danger of his life for it.

*Plunket.* Who is that man? *Wyer.* Moyer.

*Sir Fra. Withins.* Call Henry O Neal, (who was sworn.) What know you of any design in Ireland to introduce the Popish Religion?

*O Neal.* In August (78) Bishop Tirril came with 40 odd Horse-men to Vicar-General Brady's house, and alighted at the door; and he gave them there an Oath, which they took willingly and freely from hand to hand, to forward the Popish Plot against the Protestant Religion, to make an end of them all in one hour from end to end in Ireland; and said he, I will come within two days with an Order from the Ld. Oliver Plunket; and you need not be afraid, for the Ld. Oliver Plunket and I have sent some gold and money into France to get men and bring them from France over Sea: and do not fear, this will go on in one hour



through all *Ireland* from end to end. In *September* (78) a little while after, the same meeting was in a place which they call *Virginia*, in the County of *Connaght*, where they took a Priest, he is here, and he was with me, and desired me to come up to *Dublin* and discover this; and there I did discover it to Sir *John Davis*; which is all that I can say: for this *Plunket*, I never saw him in my life.

Mr. Jones. You were a Papist then? O Neal. Yes, I was.

Mr. Jones. Are you a Roman-Catholick still? O Neal. Yes, I am.

Mr. Jones. And were you acquainted with all these Orders?

O Neal. Yes.

L. C. J. How came you to know of this Oath?

O Neal. I was in the house with them; I was one concerned to take my Oath with them, and I durst not but take the Oath.

L. C. J. Had you the Oath of secrecie given you?

O Neal. Yes: and so this Priest commanded me to go along to *Dublin* and discover it.

Mr. Serj. Gefferies. What is his name?

O Neal. *John Macklegh*.

Sir Fra. Withins. Do you know any other transactions about the Plot?

O Neal. No, I will not swear for all the world more than I know.

Sir Fra. Withins.---- Then call *Neile O Neal*, (who was sworn.) What do you know of any design carrying on in *Ireland* against the Government and the Protestant Religion?

N. O Neal. I will tell you all I know: I was at Vicar *Bradey's* house the 21 of *August*.

L. C. J. What Year?

N. O Neal. (78). And Bishop *Tirril* came with 40 Horse-men to the house, and went into the house, and discoursed a little while; and they took their Oaths every one round to keep secret the Plot to destroy the Protestant Religion and the Protestants, that they might have their Estates again. And he said they did not need to fear: for, said he, you have a very good man to assist you, and that is the Lord *Oliver Plunket*, and you need not fear but it will go through all *Ireland*.

Mr. Att. Gen. Will you ask him any questions?

Plunket. Why did he not discover it before?

Mr. Serj. Jefferies. Were you a Roman-Catholick at that time?

N. O Neal. Yes, and am so still.

Mr. Paget Jury-man. I desire he may be asked how he came to be there?

L. C. J. You say, I think, this was at Vicar-general *Bradey's*; how came you to be there?

N. O Neal. I was there several times before that; for my Nurse, or my Foster-mother (I don't know which you may understand best) was House-keeper to him.

L. C. J. Were you required to take the Oath?

N. O Neal. No, my Lord, I was acquainted in the House, I had been there two or three weeks before.

Plunket. Why did not you tell it to some Justice of the peace?

L. C. J. He was a Papist, and so he is now.

N. O Neal. There were many there that were wiser than I, that did not discover it.

L. C. J. How old are you?

N. O Neal. I believe about two and twentie years old.

L. C. J. And this was but in (78.)

Mr.

*Mr. Att. Gen.* Swear *Owen Murfey*. (*which was done.*) Come, what say you ?

*O. Murfey.* *Mr. Edmond Murfey* discovered the Plot ; he went to one Lieutenant *Baker* and did discover the Plot to him, that there was a designe to bring in the *French*.

*L. C. J.* Speak out aloud, I can't hear you.

*O. Murfey.* All I know is from *Mr. Edmond Murfey*----

*L. C. J.* What do you know of any your own knowledge ?

*O. Murfey.* *Mr. Lieutenant Baker* told me, that he did hear of the *French*----

*L. C. J.* Speak what you know your self.

*O. Murfey.* If it please your Lordship, this is more: I saw that Evidence that *Edmond Murfey* did produce in *Ireland*, when he was sent to the Goal there ; but without Trial or any thing.

*Mr. Att. Gen.* Then swear *Hugh Duffy*. (*which was done.*) Speak aloud, and tell my Lord what you know of this Plot and the Prisoner. You know the Prisoner, don't you ?

*Duffy.* I know him, yes, I know him well enough.

*L. C. J.* What say you more of him ?

*Duffy.* My Lord, I say, I have seen this *Dr. Oliver Plunket* raising several sums of money to carrie on this Plot ; sometimes 10 s. per An. sometimes 20. *Mr. Sol. Gen.* Of whom ?

*Duffy.* Of all the Priests in *Ireland*; of every Priest according to his Pension and Parish. *L. C. J.* In all *Ireland* ? *Duffy.* Yes.

*L. C. J.* And towards the proceedings of the Plot ?

*Duffy.* It was to give to his Agent which was at *Rome*, and for the carrying on the business. *Mr. Att. Gen.* How come you to know this ?

*Duffy.* I was Servant to *Dr. Duffy*, who was infinitely beloved by this man : he was Father Confessor to the Queen of *Spain* : there was nothing that happen'd between them, but I was by all the time.

*L. C. J.* Were you Chaplain to him ? *Duffy.* Yes.

*L. C. J.* You are a Papist then ? *Duffy.* Yes.

*Mr. Att. Gen.* This man is a Friar, my Lord.

*L. C. J.* Were you in the Companie with them ?

*Duffy.* Yes, I was. *L. C. J.* What did pass there ?

*Duffy.* About the Plot, how they could confirm the Plot : And this man *Plunket* said, he could prevail with the King of *France*, and the other with the King of *Spain*.

*Mr. Att. Gen.* Pray acquaint my Lord particularly when this was, and in what place, and what they said.

*Duffy.* It was in (73) (74) and (75) at his own house ; and at he kept three or four Jesuits there, and a matter of a hundred Priests.

*Mr. Att. Gen.* What passed in the companie ?

*L. C. J.* Who else was there ?

*Duffy.* The discourse, my Lord, was always about the Plot, how they could contrive the matter between them ; and so they did conclude afterwards to raise so much money upon several Priests, all the Priests in *Ireland*, sometimes 20 s. sometimes 40.

*L. C. J.* Apiece, do you mean ? *Duffy.* Yes.

*Mr. Att. Gen.* What discourse had they about the *French* at any time ?

*Duffy.* Yes a hundred times ; he talked several times, that he did not question but he should prevail with the King of *France* not to invade *Spain* : And I have seen his Letter to Cardinal *Bouillon* to expostulate with him about the King of *France*, why he should wage War with

with the King of *Spain* who was a Catholick, but rather should come and redeem *Ireland* out of its Heretical Jurisdiction.

*Mr. Att. Gen.* Did you see the Letter? *Duffy.* Yes.

*Mr. Att. Gen.* Why, do you know his hand?

*Duffy.* Yes, I know it as well as I know my own; I know it if there were a thousand papers together.

*Mr. Att. Gen.* And what was the import of it, pray?

*Duffy.* That Cardinal *Bonillon* should prevail with the King of *France* not to invade *Spain*: and the contents of the rest of the Letter were, That he did admire he should not rather wage War with the King of *England*; who hath been an Apostate, and help their poor Country that was daily tormented with heretical Jurisdiction.

*Mr. Att. Gen.* How came you to be in *France*? were you employed?

*Duffy.* I went to *France* to live there in a *Covent*.

*Plunket.* Did Cardinal *Bonillon* shew you my Letter?

*Duffy.* Yes. *Plunket.* What year? *Duffy.* (77.)

*Mr. Att. Gen.* Pray Sir, you were speaking of raising of money.

*Duffy.* Yes. *Mr. Att. Gen.* Did you see any Precept about it?

*Duffy.* Yes. I have seen several Precepts; I was Curate to one Father *Murfey*; and while that man was with Dr. *Oliver Plunket*, and other Jesuits, I did officiate in his place, and he sent his Letters to me to raise 40 s. and 20 s. a time, several times.

*L. C. J.* You your self? *Duffy.* Yes. *Mr. Att. Gen.* What for?

*Duffy.* It was to send to Dr. who was at *Rome*.

*Mr. Att. Gen.* Did you send any money that you know of?

*Duffy.* Yes.

*Mr. Att. Gen.* Tell what time you gave the money your self.

*Duffy.* In (73) (74) and (75.) *Mr. Att. Gen.* Where?

*Duffy.* At his own dwelling-place at

*Mr. Just. Jones.* Of what qualitie was the Prisoner amongst you?

*Duffy.* He was Primate of all *Ireland*.

*Mr. Just. Jones.* Under whom? *Duffy.* Under whom? under the Pope.

*Mr. Just. Jones.* How do you know he was so?

*Duffy.* We had it in his Writings.

*L. C. J.* Did he stile himself so in his Letters?

*Duffy.* Yes, if he writ but to the least man in the Country, he would write, *Oliverus Armacanus Primas totius Hibernia*.

*L. C. J.* And so you always understood him? *Duffy.* Yes.

*Mr. Att. Gen.* Were you present at any of the general Consultations or Meetings? *Duffy.* Yes, I was.

*Mr. Att. Gen.* What number might meet at that time?

*Duffy.* Five hundred men and women.

*Mr. Att. Gen.* Where was this? *Duffy.* At *Cloude*.

*Mr. Att. Gen.* What was the occasion and design of that meeting?

*Duffy.* Confirmation from the Bishop.

*Mr. Att. Gen.* And what was done there besides?

*Duffy.* The second thing was, that the Gentlemen of the three Counties should conclude together about this matter.

*L. C. J.* About what?

*Duffy.* About joyning the *French* and *Spanish* together.

*Mr. Just. Dolben.* Where was that meeting?

*Duffy.* In the County of *Monaghan*.

*Mr. Just. Dolben.* Was the Prisoner there?

*Duffy.*



*Duffy.* Yes, he was the chief man.

*L. C. J.* When was this?

*Duffy.* In (71) to the best of my knowledge.

*Mr. Just. Dolben.* Were you there your self?

*Duffy.* Yes.

*Mr. Att. Gen.* What was the transaction of that day, besides the Sacrament of Confirmation?

*Duffy.* It was agreed that the Gentry of *Armagh, Monaghan, and Conaght* should joyn together; and then they went into a private Council to get a List of all the Officers that were in the last Rebellion, and those that lost their Estates.

*Mr. Att. Gen.* How do you know that? Did you go into the Consult?

*Duffy.* Yes, I was in the same Consult my self, and was as willing to proceed in the matter as any one in the world.

*L. C. J.* Where was this?

*Duffy.* Within two miles of *Clonduff*, at one Father house.

*L. C. J.* Was that at the time when there were so many persons met? Pray speak again what was done there besides Confirmation.

*Duffy.* Why, they were withdrawn aside into a Garden; some stood up, and some sat down; and *Oliver Plunket* stood in the middle of them all as a Prelate, and every one kneeled before him and kissed his hand.

*Mr. Att. Gen.* What was then said?

*Duffy.* Then they did Consult and gave special order to some of them to get a List of all the Officers in the late Rebellion, and that lost their Estates, and that they should be more forward than others to proceed in that wicked design.

*L. C. J.* What was that design?

*Duffy.* To destroy all the Protestants together.

*Mr. Att. Gen.* Was it to mingle the *Irish*, and *Spanish*, and *French* Armie together?

*Duffy.* Yes, it was.

*Mr. Att. Gen.* Did you hear the Prisoner speak about it?

*Duffy.* Yes, and he made a Speech before them concerning our own Faith and Religion.

*Mr. Att. Gen.* Was there any mention of money at that time?

*Duffy.* It was, that every man of them that could dispose of money should provide some for those Gentlemen that would soon come into *Ireland*.

*Mr. Serj. Maynard.* Who were those Gentlemen?

*Duffy.* The *French* Army and the *Spanish* Army together.

*Mr. Att. Gen.* Were you at any other meeting?

*Duffy.* No.

*Mr. Att. Gen.* After he was taken, do you know of any Order he sent out to gather money?

*Duffy.* Yes, at the Assizes of *Dalkieth*, I think it is *June* two years ago, he was apprehended----

*Mr. Att. Gen.* Indeed he was first apprehended as a very busie Papist.

*Duffy.* I have seen two or three several Orders to raise money, and for the same purpose; and that it was the onely time to bring the matter to an end when he lay in Goal himself.

*Mr. Att. Gen.* Was that the effect of the Letter?

*Duffy.* Yes; and that the *French* and *Spanish* Kings should take the advantage that now was offered whilst he was in Prison.

*Mr. Just. Jones.* You say some money was sent to *D. Cray*?

*Duffy.* Yes.

*Mr. Just. Jones.* To what end?

*Duffy.* To comply with this design.

*Mr. Jones.* Where was that *Dr. Cray*?

*Duffy.* He was at *Rome*, he was made a Bishop there.

*Mr. Att. Gen.* Who employed him there?

*Duffy.* This man employed him alwaies.

*L. C. J.* What was his Name?

*Duffy.* *Cray*.



*Mr. Jones.* You say some of the Priests paid 20, some 40?

*Duffy.* Yes. *Mr. Jones.* Did the Lay Gentry agree to pay nothing?

*Duffy.* I don't know for the Gentry.

*L. C. J.* But I think you paid something your self?

*Duffy.* Yes, I paid for two or three years my self.

*L. C. J.* And that was for the designe?

*Duffy.* Yes, for the French and Spanish Armie, and all the purposes together.

*Mr. Att. Gen.* What do you know of any Precept to be given in of all sorts of persons of such an age?

*Duffy.* I gave a List of the age of every person from 16 to 60.

*Mr. Att. Gen.* By whose order?

*Duffy.* By his order.

*Mr. Serj. Jeff.* To whom did you give it? *Duffy.* To Dr. Plunket.

*Mr. Serj. Jeff.* That is, to the Prisoner?

*Duffy.* Yes; out of my own Precinct.

*Mr. Att. Gen.* Had you an Order from him?

*Duffy.* Yes, it was directed to the Parish-Priest; and I being Curate in his place, received the Order. *Sir Fr. With.* To what purpose was it?

*Duffy.* To know what men in Ireland were able to bear Arms.

*Mr. Just. Jones.* What was the number contained in your List?

*Duffy.* 250. *Mr. Just. Jones.* What in one Parish? *Duffy.* Yes.

*Mr. Serj. Jeff.* What was the Parishes Name? *Duffy.* Coghnan.

*Mr. Att. Gen.* Do you know any thing of his going to view the Ports?

*Duffy.* I accompanied him to Carlingford. *Mr. Att. Gen.* Did you?

*Duffy.* Yes, in person I did. *Mr. Serj. Jeff.* What did he say?

*Duffy.* He went round about the place where some of the Custom-Ships come in; there was a great Castle there near the Sea, and he went to view the place, and could not get a Boat: And there was a great talk of Carlingford to be one of the best Havens in Ireland; there was no great Garrison at the place, and any Ship might come to the Gates of the Town and surprize it, being a little Town.

*Mr. Att. Gen.* What did he conclude upon that?

*Duffy.* That he might get the French Armie to land safely there.

*Mr. Att. Gen.* What do you know of delivering any Ammunition and Arms?

*Duffy.* He did send some of this money to get Ammunition into Ireland.

*Plunket.* You say you were Murfey's Curate; Can you shew any such Institution as you say came to you to raise money?

*Duffy.* I could have brought them, but I thought it needless.

*Plunket.* Can you name any other person I received money from?

*Duffy.* I have seen your Paper of the Countie of Monaghan.

*Plunket.* Have you seen any of them pay any moneys?

*Duffy.* Yes, I have seen twentie of them pay money.

*Mr. Just. Dolben.* Why you are acquainted with this man, are you not, Mr. Plunket? *Plunket.* My Lord, I believe I have seen him.

*Mr. Just. Dolbin.* Don't you know he was Chaplain to Bishop Duffy?

*Plunket.* No; I never was in his companie.

*Mr. Serj. Jefferies.* Pray tell him what time of the year it was that you were at Carlingford. *Duffy.* It was at the end of the year (77) and the beginning of the year (78.)

*Mr. Att. Gen.* Pray, if you can recollect, was you once, or twice, or twentie times in his companie?

*Duffy.* As I am a Christian, I have been a hundred times in his companie. And when you were creating Priests, you would always send for me

me to be present ; and I wonder how the man should forget himself.

*Plunket.* I do not say I have not seen him, or that I am a stranger to the man ; but in the companie of Bishop *Duffy* I never saw him, nor I never sent him Orders to pay any money : and if he did pay any money, he might shew the Order.

*Mr. Serj. Jeff.* If he did pay any money, you did ill to take it.

*Mr. Att. Gen.* Pray let him have fair play to ask any Questions.

*Mr. Sol. Gen.* Tell how you came to remember that you saw him at Sir *Nich. Plunkets*.

*Duffy.* Dr. *Duffy* did send me to Sir *Nicholas Plunkets*, and I met Dr. *Plunket* as I was coming out of the Citie. I had been half a year at the Spanish Embassadors, and he sent me for *Ireland* again, and then I lived at the Convent in *Dublin* ; and then when I knew that he would come to Town, I went to *Rings-end*, where the Ships came in, to meet him.

*Plunket.* You say you were with him at my house ? *Duffy.* Yes.

*Plunket.* If you were, you were invisible : But I ask you, Why did not you tell this to some Justice of the Peace ?

*Mr. Just. Dolben.* Good Mr. *Plunket*, he tells you he was as willing to forward it then as you.

*L. C. J.* How come you now to change your mind ?

*Duffy.* I went into *France* in (77) and I was not there a year altogether ; but when I have seen how the poor people there are brought into such slavery by the French King, I thought of it, and had rather the Devil should reign over us, than the French-man.

*Mr. Just. Dolben.* He gives you a very good rational account why.

*Duffy.* I have been at Sir *Nicholas Plunkets*, and Dr. *Patrick Plunkets*, where there fell some variance about something this man had done to Father *Duffy*. Saies Bishop *Duffy*, I might have had you drawn and quartered, if I were as ill a man as you ; and I might have been Primate of *Ireland*, if I would have undertaken those things that you undertook. Upon that, saies Sir *Nicholas Plunket*, What is that ? Why it was said it was to raise 60000 men in *Ireland* at any time whenever the French or the Spanish King should wage War with *England*, *Scotland*, or *Ireland*. And this man did confess before my face to Father *Duffy*, that it was not onely to exalt himself, but all the Roman Clergie, and all the Gentry that had lost their Estates.

*Plunket.* Mr. *Duffy*, one word with you ; Is not this out of malice to me for correcting some of the Clergie ?

*Duffy.* You had nothing to do with me, for I was a Friar.

*Mr. Att. Gen.* Swear *Edmond Murfey*. (which was done.) Tell your whole knowledge of Dr. *Plunket* and the Irish Plot.

*Murfey.* May it please you my Lord, I was one of the first Discoverers of this Plot ; but of nine Witnesses, I have but one in Town.

*L. C. J.* Well, tell your own knowledge.

*Murfey.* Now I beg your Lordship as to Dr. *Plunket*, that you will respite it till next Term, I could bring ten Witnesses.

*Mr. Att. Gen.* Do you speak your own Evidence.

*Murfey.* I refer it to the King and Council what Evidence I have given.

*L. C. J.* Do not trouble your self, be directed a little ; you are here now to speak what you know concerning any Treasons, or any other matters against the King, done by Dr. *Plunket* ; speak your own knowledge ; for as to other Witnesses we do not call you.

*Murfey.* If I be called in question for this Evidence----

*Mr.*

*Mr. Att. Gen.* Come, Sir, you have been at the Spanish Embassadors lately, answer my Question : Have you ever been with *Plunket* in Ireland?

*Murfey.* Yes; Sir.

*Mr. Att. Gen.* Have you ever heard him own himself Primate of Ireland?

*Murfey.* Yes, titular Primate. *Mr. Att. Gen.* Under whom did he claim that Authority? under the King, or under the Pope?

*Murfey.* I think he could not be under the King at all.

*Mr. Att. Gen.* Under whom then?

*Murfey.* It must be either the King or the Pope.

*L. C. J.* Answer me directly, Did he claim to be titular Primate under the Pope?

*Murfey.* I suppose he did.

*L. C. J.* Was he reputed generally so to be?

*Murfey.* Yes, my Lord.

*Mr. Att. Gen.* *Mr. Murfey*, remember what you swore before the Grand Jurie; pray recollect your self whether that be true, and tell all.

*L. C. J.* You are upon your Oath, you must speak the truth and the whole truth, you must not mince or conceal any thing.

*Mr. Serj. Jeff.* Were you sworn before the Grand Jurie?

*Murfey.* I was sworn before the King and Parliament.

*Mr. Serj. Jeff.* Did you give in any Evidence to the Grand Jurie?

*Murfey.* Yes, I did. *Mr. Serj. Jeff.* Was that you swore before the Grand Jurie true, upon your Oath?

*Murfey.* I can't say but it was.

*Mr. Serj. Jeff.* Repeat it, tell my Lord and the Jurie what it was, and tell the truth.

*Murfey.* I have forgot it.

*Mr. Att. Gen.* Why then I would ask you a little; you remember I was by, and 'tis no laughing matter, *Mr. Murfey*, you will find it so. What do you know of any Orders issued out by *Mr. Plunket*, to raise money from the Priests?

*Murfey.* I know there was Orders, and I took the Orders my self in my hand.

*Mr. Att. Gen.* From whom had you those Orders?

*Murfey.* From another, and not from him.

*Mr. Att. Gen.* Under whose hand were those Orders?

*Murfey.* They were from the Primate.

*Mr. Att. Gen.* Did you see any Order under *Plunket's* hand for raising of money?

*Murfey.* No, but under the Vicar-generals, by his authority, as I suppose.

*Mr. Att. Gen.* Upon your Oath, did you not swear before the Grand Jurie, that you saw the Orders under his hand?

*Murfey.* No, I did not; or I was mistaken, for it was onely by his direction.

*Mr. Att. Gen.* Pray had you any converse with *Oliver Plunket* about the raising of money?

*Murfey.* *Oliver Plunket* about the raising of money?

*Mr. Att. Gen.* Yes, that is a plain Question.

*Murfey.* It was about other matters I conversed with him.

*Mr. Att. Gen.* But did you converse with him about money?

*Murfey.* No, not about the money.

*Mr. Att. Gen.* Upon your Oath, did you converse with him about bringing in the French?

*Mr. Serj. Jeff.* Declare the truth, come.

*L. C. J.* Come, don't trifle; What discourse have you had with the Prisoner about raising of money, or bringing in the French? either of them, Sir.

*Murfey.* I know this, if the D. of York and D. of Ormond had proceeded according to their Intentions, it was a general expectation at the same time, that all the French and Irish would come and fall upon the English Nation, as I understood.

*L. C. J.*



*L. C. J.* Pray answer the Question directly, You must not come and think to trifle with the Court, you must speak the truth, you are sworn to it; you must not come to quibble and run about to this and that and t'other, but answer directly, Have you had any discourse with the Prisoner about Orders for raising of Money in *Ireland*?

*Murfey.* Yes, I have seen Orders from his Vicar-General for the raising of money.

*L. Chief Just.* Hath he owned them to be by his direction?

*Murfey.* Not before me, but others he has.

*Mr. Att. Gen.* Have you seen any money paid to him?

*Murfey.* To whom? *Mr. Att. Gen.* To *Plunkett*.

*Murfey.* To the Vicar General I have.

*L. C. Just.* But to *Plunkett*.

*Murfey.* None to *Plunkett*.

*L. C. Just.* Have you had any discourse with him at any time about the raising of money, which the Vicar-General gave order for?

*Murfey.* I have had discourse with the Vicar-General.

*L. Ch. Just.* Sir, don't trifle, have you had any with him?

*Murfey.* With him?

*L. Ch. Just.* Yes, with him.

*Murfey.* Yes, I have had some discourse with him.

*Lord Ch. Justice,* Tell me what that discourse was?

*Murfey.* I think it was about this. If the *D. of York*, and the *D. of Monmouth* fell out together, that he had some men to raise about that matter, and if the *D. of Monmouth* would raise the Protestant Religion—

*Mr. Att. Gen.* You see he hath been in *Spanish* hands.

*L. Ch. Just.* Were you a Protestant Sir.

*Murfey.* No, I am a Priest.

*Mr. Serg. Jeff.* He is to seek yet.

*Murfey.* I am indifferent whether I be a Protestant or a Papist.

*Mr. Att. Gen.* My Lord he is a Priest in Orders, and so hath acknowledged himself.

*Murfey.* Yes, I am a Priest, but it makes me forget my self to see so many Evidences to come in, that never knew *Plunkett*.

*L. Ch. Just.* Sir, you refuse to answer those Questions that we put to you here.

*Murfey.* What I said before the Parliament I answer punctually.

*L. Ch. Just.* You are asked questions here, and produced as a Witness, will you answer directly or not?

*Murfey.* Yes, I will.

*L. Ch. Just.* Then let me hear what discourse you had with the Primate *Plunkett* concerning any Money raised by him or his Vicar General.

*Murfey.* May it please your Lordship, first of all I did not impeach Primate *Plunkett*, but the Officers and Justices of the Peace.

*Mr. Jones.* Had you any discourse with him, yea, or no?

*Murfey.* That he should find so many Catholics in *Ireland* if the *D. of York* and the *D. of Monmouth* fell out.

*Mr. Just. Jones,* Why it plainly appears what you drove at at first, to put off this Tryal if you could.

*L. Ch. Just.* The Papists in *England* have been at work with you.

*Mr. Serg. Jeff.* I perceived this Gentleman was very busie looking upon his Hat, I desire he may be searched if he have no Paper about him.

*Mr. Att. Gen.* Mr. Solicitor and my self heard the Evidence he gave to the Grand-Jury.

*Then he went out of the Court and would scarce be perswaded to come back again.*

*Mr. Att. Gen.* We both heard him, and he gave the fullest Evidence, much fuller to all Instances, and particulars of this *High Treason*, much fuller than *Duffy* to the Grand-Jury. Afterwards about 3 Weeks ago the Tryall coming on, he ran away and lay hid, I took a great deal of Pains to find him out, and sent Messengers about, at last I heard he was got to the *Spanish* Embassadors, I sent, and they spied him in the Chappel; but the *Spanish* Embassadors servants fell upon the Messenger and beat him, the Embassador was first sent to about it, and his Excellency promised that he should be brought, and when he was found he told me but the last night, that all he had sworn before the Grand-Jury was true, and he was ready to make it out again.

*L. Ch. Just.* And now he says, he knows not what he said then, and pray take notice of that.

*Murfey.* I told the Grand-Jury this, that my Lord *Plunket* had a design to get 60 or 70000 men in *Ireland*, if the *D. of York* and the *D. of Monmouth* should fall out.

*Mr. Att. Gen.* Did you tell a word of that to the Grand-Jury.

*Murfey.* Yes Sir, or I was mistaken.

*Mr. Att. Gen.* Not one word of that did he then say.

*L. Ch. Just.* Do you own this man, *Dr. Plunket*, to be of your Religion?

*Mr. Serj. Jeff.* Do you know this Seeker?

*Plunket.* He says himself he is indifferent to be a Protestant or a Papist.

*Mr. Serj. Jeff.* I will only try you by one question more, for you are sought out, and it may be you may be found; Do you know how many men he was to raise in *Ireland*? remember what you said to the Grand Jury.

*Murfey.* 70000 Men.

*L. Ch. Just.* What were they to do?

*Murfey.* For establishing if occasion should be —

*Mr. Serj. Jefferies.* Establishing, establishing what?

*Murfey.* Of the Romish Religion.

*Mr. Serj. Jefferies.* Well, so far we have got 70000 men to establish the Romish Religion, what, was *Plunkett* to do this?

*Murfey.* As far as I understood.

*Mr. Just. Jones.* And you understood it by himself?

*Murfey.* I received Letters from the Vicar General to get so much money collected, and as soon as I got the Letters to my hands, I sent them to a Privy Councillor.

*L. Ch. Just.* Do you not know that he was engaged to assist the *French* Army?

*Murfey.* I do not know that by him, but by others.

*Mr. Just. Dolb.* Did you ever discourse with him about it?

*Murfey.* I did discourse with him about several matters.

*Mr. Just. Dolb.* About the *French* Army? *Murfey.* Yes.

*L. Ch. Just.* Do you know that he did endeavour to bring them into *Ireland*?

*Murfey.* I had a Correspondence in *France* at the same time —

*L. Ch. Just.* With whom.

*Murfey.* With one *Mac Carty*.

*L.*

*L. Ch. Just.* And do you know that he had Correspondence in *France*.

*Murfey.* Yes, I know that.

*Mr. Just. Dolb.* With whom had *Plunket* Correspondence in *France*.

*Murfey.* He had Correspondence with *Dr. Cray*, and others in *France* as I understood by others.

*Mr. Just. Dolb.* Was the end of that Correspondence to bring men from *France* into *Ireland*.

*Murfey.* Yes, so far as I understand.

*Mr. Just. Dolb.* You understood the Letters when you read them, did you not.

*Murfey.* I know not how these People come to swear this business, whether they had not malice against him—

*Mr. Att. Gen.* Well, Sir, pray give you your Evidence, we will take care of the rest.

*Mr. Just. Dolb.* I reckon this Man hath given the best Evidence that can be.

*L. Ch. Just.* Yes, it is Evidence that the Catholics have been tampering with him.

*Mr. Ser. Jeff.* I desire he may be committed my Lord, because he hath fenced from the beginning [ *which was done accordingly* ]

*Mr. Att. Gen.* Swear *John Mac Legh*. [ *which was done.* ]

*Sir Fran. Wyth.* Tell my Lord and the Jury what you know of any Plot in *Ireland* to bring in the *French*.

*Mac Legh.* I was a Parish Priest in *Ireland* in the County of *Monaghan*, and *Dr. Oliver Plunket* received several Sums of Money in *Ireland*, and especially in the Diocese where I am. I raised some of it and paid him 40s. at one time, and 30s. another time, in the year (74) I paid him 40s. in the year (75) I paid him 50s. and it was about *July*, and it was for the better advancement of the *French* coming in.

*Mr. Jones.* Did he tell you, that the money was to be employed that way.

*Mac Legh.* Yes, that the money was to be kept for Arms and Ammunition for the Roman Catholics in *Ireland*.

*L. Ch. Just.* Before you paid it, did you receive any order from him?

*Mac Legh.* Yes, I received an order *sub pœna suspensionis*, and there was a publick Order throughout *Ireland*, or we would not pay it; nay several would not pay it, and they were to be suspended.

*Plunket.* Can you shew any of the Orders under my hand?

*Mac Legh.* Yes I can shew them, but only they are a far off, I did not expect to have them asked for.

*Plunket.* Have you no Superiors of your own?

*Mac Legh.* Yes, but you being Lord Primate, you could suspend Bishops and inferior Clergy together.

*Plunket.* When was this? *Mac Legh.* In the years (74) and (75.)

*Plunket.* What is the reason you kept it secret all this while?

*Mac Legh.* In the year (77) I did discover it to one *Mr. O Neale*, who I sent to *Dublin* to discover this Plot. I was in *France* my self my Lord.

*Plunket.* How many years is it since you returned from *France*?

*Mac Legh.* In *May* in the year (78.)

*Plunket.* Why did you not speak all this while till now?

*Mac Legh.* I did send one *Mr. Henry O Neale* to *Dublin*, for I durst not go, lest I should have been suspended and excommunicated.

*Mr. Att. Gen.* This is the Priest that *Henry O Neale* speaks of. L.



*L. C. Just.* Is not this a very good reason ; if he had come to *Dublin* to discover, you would have suspended him.

*Plunkett.* But my Lord, then he might have shewn my suspension and brought me into a *Præmunire*.

*Mr. Serj. Jefferies.* If you please Dr. let us who are for the King have done with him first. I would ask you another Question Sir, were you at one Vicar *Bradeys* House ?

*Mac Legh.* Yes, I was.

*Mr. Att. Gen.* Tell what was done there ?

*Mac Legh.* There was Bishop *Tyrrell* came there with 40 Horse-men well mounted and armed, he came into the House about 10 in the morning, and staid till about 11 at Night, I was very much among them, and was as willing to be of the Plot, as themselves.

*Mr. Att. Gen.* Tell what was done there.

*Mac Legh.* There Bishop *Tyrrell* said, that he had order from Dr. *Oliver Plunkett* and others to partake of the Plot to bring in the *French* and subvert the Government in *Ireland*, and destroy the Protestant Religion and the Protestants.

*Mr. Att. Gen.* Was there an Oath given ?

*Mac Legh.* Yes, they were all put to their Oaths, which they did take willingly to keep it private during their Lives time, and the reason was they were to have their Estates during their Lives time.

*Mr. Serj. Jefferies.* Now tell us when this was ?

*Mr. Att. Gen.* My Lord, *Henry O Neale* and *Phelim O Neale* speak to the same purpose.

*Mr. Serj. Jefferies.* Do you remember whether *Henry O Neale* was there ? Did he take the Oath of Secresy ?

*Mac Legh.* Yes.

*Mr. Att. Gen.* What do you know of any Letters from *Plunkett* ?

*Mac Legh.* In *France* I landed at *Brest*, and going through *Brittany*, I met with Bishop *Tyrell* and Dr. *Cray*, who was my Lord *Oliver Plunketts* Agent, and Duke *John of Great Brittany* came into them ; for he heard of these 2 Bishops being newly come out of *Rome*, sent for them, and I being a Priest of *Tyrrells* Diocess, I went along with them, and they were well accepted, and he shewed Dr. *Oliver Plunketts* Conditions with the King of *France*, which was this ; to get *Dublin* and *London Derry* and all the Sea-Ports into their own hands, to levy War and destroy the Protestant Religion, and that they should have him to protect them during his Life-time.

*L. C. Just.* Did you see those Conditions ?

*Mac Legh.* A Copy of them I did, the Governour of *Brittany* did shew them to the Bishop.

*Mr. Serjeant Jefferies.* What Language were those Conditions in ?

*Mac Legh.* They were in Latine, Sir.

*Mr. Serj. Jefferies.* Was *Edmond Murfy* put out of the Diocess.

*Mac Legh.* Not as I know of.

*L. C. Just.* What do you know of his being Primate ? Upon what Conditions was he made Primate ?

*Mac Legh.* He was made Primate by the Election of the King of *France*. And upon his Election, he made those Conditions with the King of *France*, to raise Men to join with the *French*, to destroy the Protestant Religion.

*Mr. Just. Jones.* You know that man, Dr. *Plunkett* ?

*Plunkett.* Yes, my Lord.

*Mac leg.*

*Mr. Att. Gen.* Will you ask him any Questions.

*Plunket.* None, but what I asked the others.

*Mr. Just. Dolben.* Then if that is all, he hath given you a good Answer to that already, he was as forward then as the rest.

*Mr. Att. Gen.* Then swear *John Moyer*, (which was done.)

*Mr. J. Jones.* What do you know concerning any Plot in *Ireland*, and Dr. *Plunkets* being in it.

*Moyer.* I know him first, my Lord, to be made Primate of *Ireland*, ingaging that he should propagate the Roman Faith in *Ireland* and to restore it to the Catholick Government, and I know the time by relation, that I came to *Rome* within two Months after his being made Primate of *Ireland* upon the same Conditions, that have been related to you, and I was brought into the Convent of *St. Francis* in *Rome* by one father and this father was very intimate with Cardinal *Spinola*, and when he used to go abroad he used to carry me along with him as a Companion, and there I found several of the Roman Cardinals say, That the Kingdom of *Ireland* should come under the Catholick Government by the way and means of the Lord Primate *Plunket*.

*Mr. Att. Gen.* What do you know of your self?

*Moyer.* As I was coming then from *Rome*, I happened to come into a Convent of the Order of *St. Francis*, and there came out of *Ireland* a young Gentleman of the Family of the *O Neales*, who hath been my Lord Primates Page.

*Plunket.* I never had a Page.

*Moyer.* You termed him so my Lord in *Ireland*, and as I came, this young man had a packet of Letters with him, as tho they were commendations to enter him into the Colledge *de propaganda fide*, directed to the Secretary of that Colledge. And thinking them to be Letters of Recommendation, an old father called one *Thomas Crawley*, and I thought it not prejudicial to open the Seal; and the Contents were these, I translated them 5 years ago, and here are the Contents following, if you please they may be read, I will do my best to read them in English, the original were in Latine, and some phrases in Italian. And when I was surprized by Mr. *Murfey* the last year and taken suddenly, all my Papers were taken away before I could return back again, by the Soldiers and the Tories, I only kept a Copy of this Letter I had in English as near as I could, and if I did not diminish any thing by the Translation; upon the Oath I have taken, I have not put any thing in it, but what the Contents of the Letter were.

*L. C. Just.* Was that Letter under his own hand?

*Moyer.* My Lord cannot deny that.

*Plunket.* Do you know my own hand Writing?

*Moyer.* Does your Lordship deny, that I know your hand?

*Plunket.* Pray Sir will you answer it?

*Moyer.* Yes I do very well.

*Plunket.* When did you leave *Ireland*?

*Moyer.* I will tell you that, my Lord 'tis some 14 or 15 years ago.

*Mr. Serj. Jefferies.* You were giving an account of the Letter, read it.

*Moyer.* Here is the Contents, *Illustrissime Domine*, It was directed to *Seignior* who is now Secretary of the Colledge *de propaganda fide* (so then he read his Paper.)

*Mr. Sol. Gen.* You say, you Translated that out of a Letter under the Prisoners own Hand.

*Moyer.* Yes, I translated it immediately, and to prove it, I have statutes which his Lordship made in the general National Council, which are under your own hand my Lord.

*Mr. Sol. Gen.* When did you make this Translation?

*Moyer.* Five years ago.

*Mr. Sol. Gen.* Where did you make it?

*Moyer.* I made it out of the Original in *Ireland*.

*Mr. Sol. Gen.* Where is the Original?

*Moyer.* When I was taken by Mr. *Murfey* and Mr. *Hesbrington* the last year, the Soldiers and Tories came and took them away with other Papers I had of the same business.

*L. C. Just.* Was the Paper you translated that from, of his hand writing?

*Moyer.* No my Lord, the Paper I took this out of, was a Copy of the Original.

*L. C. Just.* Was the Original of his hand Writing?

*Moyer.* Yes, it was.

*L. C. Just.* Where did you take it?

*Moyer.* In *Caprennica*, when I met with my Lords Page.

*L. C. Just.* What made you take a Copy of it?

*Moyer.* It was in Latine and Italian, and I translated it afterwards.

*L. C. Just.* And the English Father, you say, made bold to open it.

*Moyer.* Yes, because he thought 'twas a Letter of Recommendations, but the Original of the Statutes made at *Clouds*, I did take the Original and gave a Copy to the Page.

*L. C. Just.* Have you the Original here?

*Moyer.* Yes my Lord, under his own Hand.

*Plunket.* That's another thing.

*L. C. Just.* But we would know that other thing.

*Mr. Serj. Jefferies.* My Lord, I desire that he would produce it, 'tis his own hand Writing, see whether his Grace can deny it.

*Moyer.* The signing of it is his own hand Writing, I got the Writing along with the Letter, and thinking to have a Copy of the one as well as of the other; it was the Statutes I got, and I never knew I had them till I was in *Madrid* in *Spain*.

*Then the Paper was shewn to the Prisoner.*

*Plunket.* My Lord, 'tis my hand.

*Moyer.* Indeed my Lord, it is your own hand.

*Mr. Serj. Jefferies.* He owns it.

*Moyer.* And there is an Order in those Statutes, wherein *Ireland* was bound to send so much Money to *Rome* upon such a design.

*Then the Witness read the Title in Latine.*

*Mr. Just. Dolben.* Look out that Clause for the raising of the money.

*Moyer.* My Lord, 'tis that I look for. *Cum toti Clero in Hibernia necessarium sit.*

*Mr. Just. Dolben.* That is but *negotia* generally.

*Mr. Serj. Maynard.* That was to sollicit their Affairs.

*Mr. Att. Gen.* 'Tis 500 *l.* in the whole.

*Plunket.* Is it 500 *l.*?

*Moyer.* 'Tis in Figures a 5 and two (00)

*Plunket.* My Lord this is Counterfeit, 'tis put in by other Ink.

*Mr. Just. Dolben.* Like enough so.

*L. C. Just.* Nothing more ordinary, you leave a blank for the Sum, and then, may be, you put it in with other Ink.

*Mr. Just. Dolben.* How much do you say was the Money, Dr. *Plunket*.

*Plunket.* My Lord, every Agent that is kept at *Rome* hath a maintenance, as all Countries have their Agents at *Rome*.

*Mr. Just. Dolben.* How much was it?

*Plunket.* It was 50 *l.* a year.

*L. C. Just.* Look you Mr. *Plunket*, consider with your self 50 or 500 in this Case is not 5 farthings difference, but the money was to be raised by your Order.

*Plunket.* Ay, but whether it was not raised to this Effect, There is never a Nation where the Roman Catholick Religion is professed, but hath an Agent for their Spiritual Affairs at *Rome*, and this was for the Spiritual Affairs of the Clergy of *Ireland*.

*Mr. Serj. Jefferies.* And the Letter was for Spiritual Affairs too, was it not?

*Plunket.* I desire nothing, that is a truth, every Nation hath an Agent, and that Agent must be maintained; and the reason is this, because we have many Colledges beyond Sea, and so there is no Country of Roman Catholicks, but hath an Agent in *Rome*.

*L. C. Just.*



*L. C. Just.* You had better reserve your self till by and by, to answer that and the Letter together ; for this is but a small part of the Evidence.

*Mr. Att. Gen.* About this Letter you were speaking of, Pray, will you tell what fell out about it.

*Moyer.* I will tell you how it fell out afterwards. Then I came along into *Marseilles* in *France*, and there were 2 Captains that had as much notice as I had in that Letter, for they were discoursing that they would advance themselves in the *French Kings* service, and hoped, that by the King of *France's* help to have the Roman Catholick faith set up in their own Country ; why, that discourse passed off for I was mightily affraid of any such thing, because I was of another opinion ; for perhaps I might think the Roman Catholick faith would flourish as well as ever it did, and hoped so as well as any body else, but not by the Sword. As I came to *Madrid*, there came one *Hugh O Donnell* Son to

*O Donnell* with Letters of Recommendation, and those Letters were to intitle the young man Earl of *Tyrone*, and likewise that his Majesty, the King of *Spain*, should help him for *Ireland*, according to the form of the Letters he had. And then as I came for *Ireland*, speedily after there came Letters of Recommendation to me, that I should present my self to my Lord Primate, to hear Confessions and be heard Preach. I came to his Lordship at his own House the 9th of *December* (74) and there he kept me several hours, and approved me; and the Copy of the Approbation I have to shew. And after a long dispute we went aside, and went to to look Father *Patrick*, and there he shewed me such and such things. And after a long discourse I told my Lord Primate, I see your Lordships Letter, which you sent by young *O Neale*, in such a place, and he shew'd me the Contents of it and said, ay, my Lord, 'tis a good Intention and Design, if it can be done without bloodshed, then my Lord mused a little, and said he, well Father *Francis* (which is my name in Religion, my Christian Name was *John*) pray wilt you keep it secret, well my Lord said I, you need not fear ; for said he, what ever I have done herein was not for my own good, but for the publick good of the Catholicks. Well said I, 'tis well. Then does he commend me into the Parish of

where this Mr. *Murfey* here was to put in a Bull, that I had from my Lord Primate, which Bull was brought here last year ; and there he profered me high Promotions, if I would further such things, and solícite such Gentlemen as I knew would be private in such a business, such as were old Commanders among my Friends and Relations. Shortly after this I saw *Plunket* and Bishop *Tyrrel* and Captain *Con O Neale*, practising to bring Soldiers ready for *Ireland*, as soon as they could get opportunity. This Captain *Con O Neale* coming to the place where we kept our Priory, and he and his Brothers were Sons to General *O Neale*. And there Captain *Con* comes in the Night time and lodges with us, and discoursed with his Brother and I, because I was his Companion beyond Sea, about these matters, That he expected my Lord Primate and Bishop *Tyrrel's* coming thither that Night, to make some proposals about the Church and other Affairs. After 10 a Clock or thereabouts, my Lord Primate and Bishop *Tyrrel* came with others in their Company, and there they and Father *O Neale* did consult amongst themselves, that they should send Captain *Con* to *France* and to *Barcellona* with such and such Instruments; and sending those Instruments away, Captain *Con* departs the Countrey and goes for *France* soon after ; and speedily my Lord Primate undertook, that he and Bishop *Tyrrel* should view *Munster* and *Ulster*, and other parts of *Ireland*, to see how affairs stood. Soon after my Lord Primate calls a General Provincial Council, and sends out his Orders to levy such and such Taxes and Subsidies, and Warrants to all the Parish Priests, that they should give them new Lifts to know whether the Numbers they had sent to *Rome* before, would comply with that Lift. And then *O Neale* went to view the Forts of *Charlemont* and *Dun-Gannon*, whilst those Lords did collect the money ; the Orders I have seen with my own proper Eyes, and his own man confessed before the Council in *Ireland* that my Lord gave them under his hand.

*Mr. Serj. Jefferies.* What year was this ?

*Moyer.* It was in (76) to the best of my remembrance.

*L. C. Just.* Look you Sir, was this at a Provincial meeting.

*Moyer.* Yes, my Lord, a General National Council, to send over Instruments, to tell them, that they were ready to assist any Forreign Army, that should help on the design.

*L. C. Just.*

*L. C. Just.* And to raise money ?

*Moyer.* Yes, my Lord.

*Mr. Just. Dolben.* Have you paid him any money ?

*Moyer.* I was exempted my self; but I have seen others.

*Mr. Just. Dolben.* How many ?

*Moyer.* I believe 30.

*Mr. Just. Dolben.* It was not then a secret thing then, but openly done by them.

*Moyer.* Yes, I saw them when they came with orders, there were 4 Priests, and they had a great Cloak-bag going with Orders up and down.

*Mr. Serj. Jefferies.* Why were you exempted ?

*Moyer.* Because I am a Regular Priest.

*Sir Fra. Wythins.* You say you saw the Orders for raising of money, how do you know for what it was to be employed ?

*Moyer.* It was there specified down.

*Plunket.* Can you shew any of the Orders ?

*Moyer.* I could not take them, they did not concern me.

*Sir Fra. Wythins.* How was it specified ?

*Moyer.* To Levy so much Money *per* Priest. I cannot remember the particular Summ; but that every Priest should give so much towards an Agent in *Rome* to Solicite their Business, and forward it.

*L. C. Just.* What year was it ? *Moyer.* (76.)

*L. C. Just.* Was any of the Money specified for raising an Army, or bringing in the French ?

*Moyer.* It was both for the Agent and to summon a National Council, to get things ready prepared to entertain and accept the French Army when it should come. I am not so good in expressing my self in English.

*L. C. Just.* Your sense is good, 'tis no matter for your expression.

*Mr. Jones.* What more do you know ?

*Moyer.* I know that he had the same Council, and that they did agree upon the business, and this I know by one *Patrick Burne*, and I being willing that this wicked Action should be hindered, sent to the next Justice to discharge my self of it, which Justice was as favourable to the business as my Lord himself was.

*L. C. Just.* Will you ask him any Questions, *Mr. Plunket* ?

*Plunket.* I desire to know when he left *Ireland*.

*Moyer.* I cannot tell how to number the years, but I think it was in 62 or 63, to the best of my remembrance it was 16 or 17 years ago.

*Plunket.* When did you return ?

*Moyer.* I came back in 74, you know it my Lord.

*Plunket.* Very well, when did you see the Letter with the young man in *Capprennica*. *Moyer.* In (72.)

*Plunket.* How then did you know my hand, which you had never seen ?

*Moyer.* I have seen it several times to several Instruments, to Scignior and I have seen several other Letters of your hand.

*Plunket.* How did you know my hand ?

*Moyer.* I cannot positively say, I then knew your hand, but according to relation, I heard it from those Cardinals I conversed with at *Rome*.

*L. C. Just.* But now you are acquainted with his hand, is it the same hand which you have seen up and down in Writings with his name to ?

*Moyer.* Yes my Lord, it is the very same hand.

*Mr. Serj. Jefferies.* I ask you Sir, when you came back again and told him you had seen such a Letter under his hand with *O Neale*, did he own it to you ?

*Moyer.* Yes, he did own it, and that he did not do it for his own benefit, but for the publick.

*Mr. Serj. Jefferies.* Did he desire you to be secret ?

*Moyer.* Yes, he did, and to be discreet, and he would see me highly promoted. And my Lord, you sent Proposals to me, to give me 100 *l.* that I should not prosecute you, according as they told me, and they gave me one Guinny in hand for it.

*L. C. Just.* Some of it came to the hands of *Murfey* I believe.

*Plunket.* My Lord, I cannot say any thing to this, my hands are tyed, because my Witnesses are not here. My Lord, if I had my Witnesses and Records, I did not care for all these Witnesses.

*L. C. Just.*

*L. C. Just.* But you know, you had time to bring them.

*Plunket.* My Lord, I desire to know whether this be his hand, (shewing the Paper to Mr. Moyer.)

*Moyer.* Yes, I believe it is.

*Plunket.* I desire it may be read.

*Moyer.* Yes, I am very well satisfied it should.

*Cl. of Cr. Reads.* For my very Reverend Father *Ambony* Guardian of *Armagh*, Your Letter and Citation — 'Tis dated in *July* (78.)

*Plunket.* He can best read it himself.

*Cl. of Cr.* Read it right (the Paper being delivered him.)

*Moyer.* My Lord, I pity him with all my heart, that a man of my own Function, should be brought into Question for such things as these are, (he reads) Very Reverend Father Guardian, 'tis dated 1 *July* (78.) Your paternities paternal Letter and Citation homeward, I did instantly peruse. As for my Lord *Oliver Plunket*, I wrote a Letter to him the day before I saw your Reverends last, that he might cause my fame, which is as dear to me as my Life, to be recalled, or I should cause his Name to be fixed at every publick place, which by the Almighty I will do, nature and all reason compelling me to do it.

*Plunket.* My Lord, I say this, he says he came to my House when he came over, and I imparted this secret to him, yet you see I had denounced him throughout my whole Diocese, and he here calls me by all those Names of *Elemas*, *Simon Magus*, and *Barjesus*, and 'tis impossible if I had communicated such a secret to him, that I would deal so with him.

*Mr. Just. Dolben.* He does not say, you imparted this secret to him, but he says, when he told you of the Letter, you answered him, but you seemed surprized and mused first.

*L. C. Just.* You seemed to flatter him then, and told him you hoped to see him, the best of his Order, highly promoted.

*Mr. Just. Dolben.* How came you to fall out, *Moyer*?

*Moyer.* When first they had this meeting at *Brantry*, seeing a Cloud a coming, and dreading a War, and the consequences of it, I went and applied my self to Sir *Hamilton* one of His Majesties Privy Councillors in *Ireland*, and I gave in all my Informations the 7<sup>th</sup> December (76.)

*Mr. Just. Dolben.* And thereupon he denounced you Excommunicate?

*Moyer.* Yes, and afterwards, when he saw I was in Communication and Familiar with these Privy Councillors, then he was certain I had discovered the matter, and then he got a great many Devices to get the Letters out of my hand.

*Plunket.* You shall see under his own hand all the Stratagem of this, if I had my Witnesses here, you should then see under his own hand, upon what account he fell out with me. Pray my Lord ask him if this other Letter be his hand.

*Moyer.* I believe it is my own hand.

*L. C. Just.* Read it.

*Moyer.* (Reads,) Very Reverend Father Guardian (then speaking) My Lord, you know that I was loth to discover my self, being among People knowing of the Plot.

*L. C. Just.* Well, read it over.

*Moyer.* (Reads) The 23<sup>th</sup> of *April* (78) I was somewhat comforted by your Letter. But now I hope your Reverence hath considered what wrong I have sustained, by my envious Adversaries Calumnies, only for standing, as I have a Soul to save, for your Rights and Priviledges, as also for endeavouring to hinder my Native Countries ruine and destruction.

*Mr. Just. Dolben.* Read that again. (which he did.)

*Plunket.* Observe, that I was his Adversary, for standing for the Rights and Priviledges of the Fryers.

*Mr. Just. Dolben.* As also for endeavouring to hinder his Countries ruine and destruction.

*L. C. Just.* The one and the other were the reason of your falling out.

*Moyer.* (Reads on.)

*Moyer.* My Lord, I was I confess a begging Fryar, and stood up for the Priviledges of the Fryars.



*Plunket.* Did you write any Proceſs to *Rome* againſt me?

*Moyer.* No, I never did it.

*Plunket.* My Lord, does not he ſay I was in diſgrace at *Rome*?

*Moyer.* No, nothing of that.

*L. C. Juſt.* I don't hear it, but what if he did? what is that to the purpoſe?

*Plunket.* To ſhew his Contradictions, now he ſays, I was great in *Rome*, and but then in his Letter he ſays, I was in diſgrace at *Rome*. Now he ſays, all that he had againſt me, was for his Fryers, and to hinder the deſtruction of his Countrey, becauſe I hindred the Fryers to beg there, is the Deſtruction of his Countrey, as he was doing there. Upon that he fell out with me, and upon that his own Superiors ſent this Order.

*L. C. Juſt.* We can't meddle with your Superiors Orders, they are nothing before us.

*Mr. Serj. Jefferies.* My Lord, I think for the preſent, We have done our Evidence.

*Plunket.* My Lord, to ſhew what was part of the falling out, I would aſk him if he was Indicted for any Crime, and found Guilty by a Jury?

*Moyer.* That was for diſcovering, for I diſcovered it before.

*Plunket.* My Lord, he confeſſes he was Convicted for giving Powder and Shot to the Rebels.

*Mr. Juſt. Dolben.* No, no he does not ſay ſo, produce the Record, if you have any of ſuch thing.

*Moyer.* To ſatiſfie the Court.

*Mr. Serj. Jefferies.* Look you *Dr. Plunket*, if you will aſk him any Questions, that by Law he is bound to answer, do it of Gods name, we will not interpoſe, but if you aſk him any Questions that may tend to accuſe himſelf, we muſt tell you, he is not bound to answer them.

*Plunket.* He hath been Convicted and found Guilty, he will Confeſs it himſelf.

*L. C. Juſt.* He is not bound to answer ſuch a Queſtion.

*Moyer.* It was a Tory ſwore againſt me, that you did abſolve.

*Mr. Juſt. Dolben.* Don't tell us a ſtory of your Tories.

*L. C. Juſt.* Look you *Mr. Plunket*, don't miſpend your own time; for the more you trifle in theſe things, the leſs time you will have for your defence. I deſire you now to conſider, and well husband your time for your defence; what have you to ſay for your ſelf?

*Plunket.* My Lord, I tell you, I have no way to defend my ſelf, in that I was denied time to bring over my Records and my Witneſſes which are 10 or 12. And if I had them here, I would ſtand in defiance of all the World to accuſe me; but I have not ſufficient time to bring over my Records and my Witneſſes, and I am brought here from out of my Native Countrey; were I in *Ireland*, there both I and they ſhould be known: but when I was to be tryed there, they would not appear; and it is all falſe and only Malice. Theſe Men uſed to call me *Oliverus Cromwellus* out of ſpight.

*Mr. Serj. Maynard.* You are very like him, a deſtroyer of the Government.

*Mr. Serj. Jefferies.* Were not you acquainted with him?

*Plunket.* This is all I can ſay, if I had my Witneſſes here I could make my defence.

*L. C. Juſt.* Here are ſome things, that if you can give an Answer to, you will do well to do it; for they ſtick cloſe to you. They do teſtifie againſt you here, that you did undertake to raiſe a body of men in *Ireland*, 70000 men they ſpeak of out of your own Nation, and all theſe were to joyn with the *French*, for the introducing the Religion of the *Romiſh Church* into *Ireland*, and ſettling that again there. And that you in order to this, did take a Survey of all thoſe Roman Catholics that were able to bear Arms, from 16 to 60; and there is plentiful Evidence, that you did go a Circuit there to peruſe all the Towns, and ſee which might be moſt Convenient for the taking in, and entertaining the *French*, and landing their Forces; and *Charlemont*, you did deſign that for one ſtrong place to be taken, and *Dun Gannon* for another, and that you did deſign the *French Army* to land at *Carlingford*, and all that was with you, tells the reaſon you gave, why that ſhould

should be the place, that they might come up with a burdened Ship to the very Gates of the Town, that you did in order to the entertaining these Forraign Forces, raise Money, That you did send out your Orders *sub pœna suspensionis* to all that were of the Roman Clergy, and that this Money was received, several of them testified that they paid it to you, and this man hath seen great numbers of persons pay money to you upon these accounts. All these are Treason, what say you to them. It does import you to consider what Answer you can give.

*Plunket.* My Lord, first as to the first point, I answer, that I never receiv'd a Farthing of Money out of my own District, and but for my own Livelihood, and that I can prove by those that have received it for me, that I never received over threescore pound a year in my life, unless some Gentleman would now and then give me 10 s. for my relief. For my Lord, this is the way in *Ireland*, every Priest hath so many Families allotted to him, and every Roman Catholick Family gives 2 s. a year (*as they that profess that way, know*) and the Priests give me who am Superior over them, in my own District, some 20 s. some 30 s. and I never got so much in my life as to maintain a servant, and this was attested before the Council in *Ireland*.

Mr. Just. *Dolb.* Ay, but the Witnesses say, out of your own District you sent into another Bishops Diocess to Collect money.

*Plunket.* My Lord, I say I could never get so much as to keep a servant, and till now I never got a farthing out of my own Diocess, unless I have been called to an Arbitration or some such thing, it may be for my Journey and expences 40 or 50 Miles they would give me something for my maintenance, If you should find any thing else, I will be content to suffer, and if my Evidence were brought from *Ireland*, there is nothing but what would be made clear, both under their own hands and by Records, and that is all well known, and was attested in his Presence before the Council in *Ireland*, which threescore Pounds was a very small thing to maintain me, & I never had above one servant, and the House I lived in was a little Thatched House, wherein was only a little Room for a Library, which was not 7 foot high, where once this fellow came to affront me, because I had hindred him from begging, and that's for the money. For the Men, I desire any one that ever see me make a List of Men in my life, or can produce any List made by my order. I was never in my life at *Kingsale*, at *Corke*, at *Dun-Gannon*, at *Lymrick*, &c. or those parts of *Munster* which were the chief Ports where the *French* should come in, and not in *Carlingford* which is the narrow Seas in *Ulster*, which any one that knows the World will judge to be a very improper place for the *French* to land in. 'Tis all one as to say that the *French* should come in at a poor place where they could get nothing, it being at the Narrow-Seas, and they never saw me there in their Lives.

*L. Ch. Just.* Yes, one does say, he was with you.

*Plunket.* Well, one does say he saw me there, but if I had my Witnesses here, I could prove he was a Fryer, and declared an Apostate by his own Provincial, as this Gentleman is, and because I hindred them to beg in my Districts, therefore they have this Malice against me, that is all. Well my Lord, that is for that, I was never in my life in *Connaght*, And they cannot say, I took any List in *Ulster*, nor was 12 Miles in *Munster* in my life, But thus my Lord, Sometimes there would be, as our way is, so many Families assigned to every Priest, (*and this is the plain truth,*) this Priest perhaps complains to me of the Inequality, my Companion near me hath 150 and I have but Threescore, which I must rectifie; though I never knew but one of these Complaints,

plaints. And if I had my Witnesses from *Ireland* and the Records, I would defie all these Witnesses together. For my sending to *Rome*, I had never an Agent in *Rome* for these seven years past, because I was not able to maintain him, and indeed it was a great shame to us; because there is never a Community of Fryers, that hath a Colledg beyond Sea, but hath some Agent at *Rome*.

*L. Ch. Just.* 'Tis a shame to have one there, not to want one.

*Mr. Just. Doll.* Well, if you have Witnesses, I cannot tell what to say.

*Plunket.* If I had gotten but to the latter end of the Term, I had defied them altogether. And your Lordship should have seen under their own hands what they were.

*L. Ch. Just.* You forget this all this while, your own Letter; wherein this matter is, that you had leached the Towns and considered it.

*Mr. Att. Gen.* He does deny there was such a Letter, he does not own there was such a Letter.

*Plunket.* I my Lord, I never did write such a Letter. And that young man that he speaks of, I could prove, if I had my Witnesses, that he never was in any service or Company in *Ireland*, nor writ any Letters by him.

*L. Ch. Just.* Did you never send any Letter by one *O Neale*?

*Plunket.* No my Lord, but he went over a begging.

*Moyer.* This young mans Brother in Law will testify, that he was your Lordships Page.

*Plunket.* I have 3 Witnesses that he came there begging, naked, and was Sick 3 Months, and went over a begging, and was at *Rome* as a stragler.

*Moyer.* Call *Hanlet*, (who came in)

*Sir Fran. Wyth.* Did you know *Neale O Neale*?

*Hanlet.* Yes.

*Sir Fran. Wyth.* Whose servant was he?

*Hanlet.* My Lord *Plunket* sent him to *Rome*; he was sent there with his Letters and I saw the young man and the Letters.

*Mr. Jones.* Did he come a begging there?

*Hanlet.* No.

*Plunket.* Where did you see him.

*Hanlet.* At *Mant*.

*Plunket.* Where is that?

*Hanlet.* In *France*.

*Plunket.* And you saw him with my Letters?

*Hanlet.* Yes.

*Plunket.* And this man says, the Letters were opened at *Caprennica*, because he thought they were Letters of Recommendation.

*Hanlet.* Why, he went that way afterwards, and they were not opened, when I saw them.

*Mr. Ser. Jeff.* Did you know he was the *Doctors* Servant?

*Hanlet.* Yes, he was.

*Plunket.*



*Plunkett.* Did you see him in my Service?

*Hanlett.* I saw him in *Mant.*

*Mr. F. Dolben.* How do you know he was the Bishops Servant.

*Hanlett.* Because he shew'd me his Letter.

*L. C. J.* Was he owned for his Servant, and was he taken for his Servant.

*Hanlett.* Yes.

*Plunkett.* Did he go on Foot, or on Horseback.

*Hanlett.* He went on foot.

*Plunkett.* He was in a poor Condition in a place not above four Miles from *Rome*, that I can prove.

*L. C. J.* Did he begg as he went.

*Hanlett.* No.

*L. C. J.* Mr. *Plunkett*, if there is any Question you will ask of the Witnesses; or if there be any Evidence you would give your self, this is your time for the doing of it; if not, we must leave your Case to the Jury, who have heard the Evidence all along.

*Plunkett.* Only this my Lord, your Lordships sees how I am dealt with. First and foremost, I have not time to bring my Witnesses, or my Records, which if I had, I would not weigh one Farthing to leave my Cause with any Jury in the World. Besides all this, I am brought out of my own native Countrey, where these men lived, and I lived, and where my Witnesses and Records are, which would shew what these People are. I sent by the Post and did all that I could, and what can I say when I have not my Witnesses against these People, they may swear any thing in the World; you cannot but observe the Improbability of the thing in it self, and unto what a Condition I am brought. My Lord, my Life is in imminent Danger, because I am brought out of my own Country, where these People would not be believed against me.

*Mr. Sol. Gen.* My Lord, I think this matter lies in a narrow Compass, the Evidence hath been long; I would only repeat the short heads of that which hath been given at large. He is Indicted for a Conspiracy to kill the King, the Overt Act is an Endeavour to introduce a foreign Power into *Ireland*, to raise an Army, and levy War there; and the Proof of it hath been very full. The Proof in general, that there was a Plot to introduce the *French*, is plain by all the Witnesses, and the Proof in particular upon this Person at the Barr, hath been as plain as any thing can be. They prove to your Lordship in general, that there was an Expectation that the *French* should come in, that there was an Invitation of *Florence Wyer* the first Witness, to go over into *France*, and speedily he should have a Command upon his return, in *Ireland*, that there were Preparations; for this appears by the Oath of Secrecy given to several men. Forty men that came along with Bishop *Tyrrel* to keep it private during their Lives; and there was a farther Proof of that general Conspiracy by *Duffy*, that when there was a general Meeting of so many thousand People for Confirmation, there was by the Gentlemen at that Meeting a secret Consultation how to carry on the Design, and how to list Men, and to look out the old Officers in the late Rebellion; and to see what Posture they were in, as to the manage-

ment of this Design, and this comes now particularly to the Prisoner who was by at this Consultation, so the Witnesses do tell you. But that that comes nearer to him, is, that he did issue out Orders for the raising of Money, and that he did raise Money pursuant to those Orders, and did receive Money for that very purpose; this is proved by three Witnesses, *Duffy*, and *Mac Legh* who paid the Money, and by *Moyer* the last Witness, who saw him receive it from several Persons. This is positive upon him; nay, they say farther, that there was a List made of the several men, in the several Parishes, that were able to bear Arms upon occasion, from sixteen to sixty, and there was a List of a matter of three score thousand men that were ready upon any Occasion to rise for the Purpose, and this List was delivered over into the Hands of the Prisoner at the Barr. There is one Witness, *Duffy*, that saies farther, that he saw a Letter under his Hand in *France* to the Cardinal *Bouillon*, to invite the French King into *Ireland*, and he did wonder that he should spend his Time and Blood in Wars against *Spain*, which was a Roman Catholick, and not come into *Ireland* to extirpate the Hereticks. And this Letter is confirmed by another Letter, which was seen by *Moyer*, a Copy of which is produced, which he translated from the Original in Latin, and the Letter was sent to *Rome* by *Neale O Neale*, whom the Prisoner saies he had no Concern for, but to give him some Recommendations.

*Plunkett*. I gave him no Recommendations.

*L. C. J.* No, he saies he did not give him any, nor sent any Letter by him.

*Mr. Sol. Gen.* Then he urged, that he went along begging by the Way, but 'tis proved he was sent by him, and sent with Letters, and that by his Brother in Law, who met him at *Mants*. And 'tis proved by *Moyer*, who saw the Letter opened, taking it to be but a common Letter of Recommendation, he read the Letter and took a Copy of it, and translated that Copy, which Translation is enough to verify all the matter which the Witnesses have sworn, for 'tis agreeing to what he said to Cardinal *Bouillon* in his other Letter, that it was more proper for the Catholick Princes to agree together to extirpate Heresy, than to vary amongst themselves, that now was the time: for there were three score thousand Men ready to rise upon such an Invasion. This is the Substance of the Letter, and this proves fully the Conspiracy this man was engaged in, his receiving Money, his Lifting Men, and his Invitation of forreign Princes. And this is fully proved.

*Mr. Serj. Maynard*. And so his Viewing the Ports too.

*Mr. Sol. Gen.* It was likewise agreed that *Carlinsford* should be the Port, and 'tis like enough to be the Port, for 'tis a very large Port, that Ships of the greatest Burthen may come up to the Town, and the Town it self but a weak Town. This is the Substance of the Evidence, and this is Proof enough, we think, to convict any Man of this Fact.

*Mr. Serj. Fefferies*. My Lord, I shall trouble you but with one word that hath been omitted. I think 'tis a Cause of great Example, and that thing which the Prisoner seems to make his Excuse hath been answered by a Favor and Indulgence from the Court in a very extraordinary

ordinary manner. For, in as much as this Gentleman would make it a very hard Case, That he is brought out of his own Country, and hath not his Witnesses ; it is very well known that by a particular Favor of the Court, which is not usual in these Cases, he had between five and six weeks time for preparation for his Tryal : so that truly as to what does appear, I think all the Witnesses that have been examined, are Witnesses to be credited, except you Gentlemen, of your selves can convict upon your own Knowledge these Persons of any Misdemeanor, which I think you cannot, much less of Perjury. But besides, the Witnesses we have produced, all which speak to the Plot in general, and four of them fix it upon the Person at the Bar ; they speak particularly, and every one agrees in Circumstances, and that other that spoke mincingly, I put it upon ; it is the greatest Evidence that can be. For that Person that could come before a Grand Jury, and there be the main Witness, but when he comes here, must be scrud and pump'd to discover the seventy thousand men. And I suppose you did observe how difficult it was to know of him, whether this Person was Primate of *Ireland*, or whether it were from the Authority of the King or the Pope, a very probable thing, that he should be such a one as the King designed to be Primate and Superintendent of *Ireland*. Further my Lord, this I desire to take notice of too, that *Wyer*, the first Witness, fixes four particular things upon the Prisoner at the Bar, which have not yet been taken notice of. First, he fixes a Discourse with another Person that was Competitor with him for this very Office, Bishop *Duffy*, and he gives the Reason why he was admitted into the Office rather than the other, because he was a man of greater Ability to carry on the Design, and tho' he does not give you an account of the Design ; yet the rest of the Evidence do, and make it to be the Design then carrying on. Another thing is, he tells you of the sending one into *France*, that was to come back again in order to this Design, I think his name was *Mac Donnel*, and then the great Tory *Flemming* and he were to come back again Colonels in the Army that was to be raised. The next Person, that fixes it upon him, is Mr. *Han O Neal*, and he gives the plainest Circumstances, That at a time in *August* when Bishop *Tyrrell* came to the House of one *Bradey* with so many men well equipped with such and such Arms, and took the Oath of Secrecy ; he himself, but not only he, but the other Priest *Mac Legh*, was present at the same time, and took the said Oath, and he does tell you that that very Priest was sent to *Dublin* to discover it at that very time, and so he hath fixed the Person, and Time, and the Business they came about. Then *Mac Legh* comes and tells you the same thing in every Circumstance ; ay, but says the Prisoner at the Bar, and he would make it to be a great Objection, How chance that they have concealed this all the while, and not discovered it to some Justice of the Peace ? Why, says one, I was under your Jurisdiction in that place, that is the very Reason he gives wherefore he durst not, and says another, I was concerned and as earnest as the Prisoner or any body else, but going into *France*, I observed the slavery that all the Subjects were under, under the Tyranny of that King, and apprehending that the same King was to come into *Ireland* by the means of these

Gentlemen ;



Gentlemen ; I was concerned at it, and had rather the Devil should reign over us than such an one, and therefore I will discover it. And he said very well I think, that he had rather have the Devil to reign ; for it seems to be him, or one in his shape that reigns after that manner. And there are two Persons that swear to the very year that they were obliged to raise the money, and swear positively, they saw his Orders *Sub pœna suspensionis*, I do not know whether they mean hang'd or suspended from their Office. But it seems it was so terrible, that it made them pay twenty Shillings apiece for three years successively. And there is another Gentleman that tells you, that out of a small Living, wherein he was concerned only as Curate to a third Person it had been paid two or three times, and another tho' he was exempt himself from the payment, yet so great a Confident was he of the Prisoner's at the Bar, that he was present when he saw thirty or forty pay this Tax, and whereas the Prisoner at the Bar would make it thought a strange thing, that he should raise so much money, who had but an house seven foot high, it seems there is above that thatched house a Chappel.

*Plunkett.* There is no Chappel.

*Sr. Geo. Fefferies.* But now my Lord, that which substantially proves what these Witnesses say, is the Letter that is sent to Rome to the Secretary of the College de *propaganda Fide*, which is the last Letter that the last Gentleman speaks of, wherein he does particularly take notice, that he had taken care to raise such moneys, and view all the Ports and Places of Strength. And my Lord, that which is a very great Circumstance to back the Evidence of the first Letter to the French Cardinal *Bouillon* which was taken notice of by the first Witness, and there is such a passage in this too, that the Catholick Princes should not spill one anothers blood, when they might better employ it here in *Ireland* for the Propagation of the Faith ; this last Letter takes particular notice of that very instance too, that instead of drawing their Swords against one another, they had better come to promote the Catholick Faith in *Ireland*. These four Witnesses are punctual and precise in every particular Circumstance of the Case, and against them there is nothing but the common Objection. If I had such Records, and Witnesses here I could make my Defence, that is, if he had those things that he has not, he might appear to be another man than he is ; but I am sure, as it appears upon the Evidence that hath been given by all the Witnesses, there is a plain Proof and a full Proof of every Treason laid to his Charge.

*Plunkett.* My Lord, I desire these Witnesses may be called [*giving in a Paper.*]

*Cryer.* *David Fitz-gerard, Eustace Commynes and Paul Gormar.*

*L. C. J.* Who gave him this Paper, he had it not before ?

*Stranger.* I was told that these were good Evidences for *Dr. Plunket*, and I gave him the Names.

*L. C. J.* Where are they ?

*Stranger.* They are hard by.

*Mr. Att. Gen.* Where is *Eustace Commynes*, for he was one that gave in Evidence against the Prisoner.

Then

Then *Paul Gormar* appeared.

*L. C. F.* What would you ask him?

*Plunket.* I desire to know of him, whether *Mr. Moyer* did allure and intice him to swear against me?

*Gormar.* Indeed my Lord he never did.

*L. C. F.* Will you ask him any more?

*Gormar.* But this my Lord, *Mr. Moyer* and I were in Discourse, and he said if there was Law to be had in *Ireland*, he would shew *Mr. Plunket* his share in it.

*L. C. F.* Well, what of that?

*Gormar.* My Lord, I did come out of *Ireland* to reveal what Plots the Irish had against the King, and as for this *Mr. Plunket*, as I have a Soul to save, I never heard of any Misdemeanor of him.

*Mr. F. Dolben.* How came you here to day?

*Gormar.* I was summoned.

*Mr. F. Dolben.* By whom? Was it the Attorney General or *Plunket* that summoned you?

*Gormar.* Here is the Summons.

*Mr. Serj. Fefferies.* It is a common *sub Pensa*.

*Plunket.* I never sent for him,

*Gormar.* It was not against you, they know I had nothing against you, I thought you did more good in *Ireland* than hurt, so I declare it.

*L. C. F.* Have you any more Witnesses? If *Fitz-Gerard* or *Commines* will come, we will hear them.

*Plunket.* My Lord, I have not any more Witnesses.

*L. C. F.* Look you Gentlemen of the Jury, This Gentleman here *Mr. Plunket*, is indicted of High-Treason, and 'tis for Conspiring the King's Death, and endeavouring to bring the French Army into *Ireland* for to invade that Kingdom, and to plant the Romish Religion in that Kingdom. You have had Evidence against him that hath been fully examined. And these things do seem to be very plain by the Witnesses, That he himself hath taken a Commission, or a Grant, or what you will please to call it, from the Pope to be Primate of *Ireland*, that he hath taken upon him to make Laws as the Provincial, and that he hath undertaken and endeavoured to settle the Popish Religion in that Kingdom, and in order to that, he hath invited the Aid of the French Army, and that he hath for the better landing of them, looked out what places were most convenient for them; That he hath set a Tax upon the Clergy within his Province for the facilitating of all this, and for the making preparations for the entertainment of this Army. This the Witnesses testify against him, and that there were some Towns, as *Dungannon* and another Town, that were to be betrayed to the French. Now you must consider concerning these Witnesses: If you believe the Evidence that hath been given, and which hath been repeated by the Kings Counsel, and if you believe that he did design to bring in a French Army, to establish the Roman Religion there again, and that he took upon him to raise money for that purpose, survey'd the Ports, and made such provisions, as the Witnesses

peak of, and was in that Conspiracy; you must find him Guilty, I leave it to you, it is a pretty strong Evidence, he does not say any thing to it, but that his Witnesses are not come over.

*Plunkett.* I can say nothing to it, but give my own Protestation, that there is not one word of this said against me is true, but all plain Romance, I never had any Communication with any French Minister, Cardinal, nor other.

*Then the Jury withdrew for a Quarter of an Hour, and being returned gave this Verdict.*

*Cl. of Cr. Oliver Plunkett,* hold up thy hand. How say you, is he Guilty of the High-Treason whereof he stands Indicted, or not Guilty?

*Foreman.* Guilty.

*Plunkett.* Deo Gratia, God be thanked.

*Then the Verdict was Recorded, and the Court rose. And the Keeper went away with his Prisoner.*

On Wednesday 15<sup>mo.</sup> Junii, 1681. *Oliver Plunkett* was brought to the Barr to receive his Judgment.

*Mr. Att. Gen.* My Lord, I pray your Judgment against the Prisoner *Oliver Plunkett.*

*Cl. of Cr. Oliver Plunkett,* hold up thy Hand; Thou hast been Indicted of High-Treason, thou hast been thereupon Arraigned, thou hast thereunto pleaded not Guilty, and for thy Trial hast put thy self upon God and the Country, which Country hath found thee Guilty, what hast thou to say for thy self, why Judgment of Death should not pass upon thee, and Execution be thereupon awarded according to the Law.

*Plunkett.* My Lord, may it please your Lordship, I have something to say, which if your Lordship will consider seriously, may occasion the Courts Commiseration and Mercy. I have my Lord for this Fact been Arraigned in *Ireland*, and brought to my Trial there. At the Day of my Tryal all the Witnesses voluntarily absented themselves, seeing I had Records and Witnesses to convince them evidently and shew what men they were, and the prepossessed Malice that they did bear to me, and so finding that I could clear my self evidently, they absented themselves, on the day of my Tryal no Christian appeared, but hither over they come, and procure that I should be brought hither, where I could not have a Jury that knew the Qualities of my Adversaries, or who knew me, or the Circumstances of the Places, Times, and Persons; the Juries here as I say were altogether Strangers to these Affairs, and so my Lord they could not know many things that conduce to a fair Tryal, and it was morally impossible they should know it. I have been accused principally and chiefly for surveying the Ports, for fixing upon *Carlingford* for the Landing of the *French*, for the having of seventy Thousand Men ready to joyn with the *French*, for collecting Money for the Agents in this matter, for the assisting of the *French* and this great Utopian Army. A Jury in *Ireland* consisting



sisting of men that lived in that Country, or any man in the World that hath but seen *Ireland* in a Map, would easily see there was no probability that that should be a place fit for the French to Land in, tho' he never was in *Ireland*, yet by the Map, he would see they must come between the narrow Seas all along to *Ulster*, and the Rocks, and such places would make it very dangerous; and by their own Confession it was a poor Town, and of no strength, a very small Garrison, which had not been so, if it had been a place of any Consideration. And whereas I had Influence only upon one Province, as is well known, tho' I had the Title of Primate of all *Ireland*, as the Arch-Bishop of *Canterbury* hath of all *England*; yet the Arch-Bishop of *Tork* will not permit him to meddle with his Province; and 'tis well known by the Gentry there, and those that are accustomed to the place; That in all the Province of *Ulster*, take Men, Women, and Children of the Roman Catholicks, they could not make up seventy Thousand. This, a Jury there my Lord had known very well, and therefore the Laws of *England*, which are very favourable to the Prisoner, have provided that there should be a Jury of the Place where the Fact was Committed, as *Sr. Thomas Gascoine*, as I have heard, had a *Torkshire* Jury, tho' he was tryed at *London*. And then after my coming here, I was kept close Prisoner for six Months, not any Christian was permitted to come at me, nor did I know any thing, how things stood in the World. I was brought here the third of *May*, to be Arraigned, and I did petition your Lordship to have some time for my Tryal, and I would have had it put off till *Michaelmas*, but your Lordships did not think fit to grant so long, but only till the eighth of this Month, when my Witnesses who were ready at the Sea side, would not come over without Passes, and I could not get over the Records without an Order from hence; which Records would have shewn that some of the Witnesses were Indicted and found Guilty of high Crimes, some were imprisoned for Robberies, and some of the Witnesses were Infamous People, so I petitioned the eighth of this Month, that I might have time but for twelve days more, but your Lordship thought, when the Motion was made, that it was only to put off my Tryal, and now my Witnesses are come to *Coventry* yesterday morning, and they will be here in a few days, and so for want of time to defend my self in, I was exposed to my Adversaries, who were some of my own Clergy, whom for their debauched Lives, I have corrected, as is well known there. I will not deny my self, but that as long as there was any Toleration and Connivance, I did Execute the Function of a Bishop, and that by the second of *Elizabeth* is only a Premunire, and no Treason. So that my Lord, I was exposed Defenceless to my Enemies, whereas now my Witnesses are come, that could make all appear. I did begg for twelve days time, whereby you might have seen as plain as the Sun, what those Witnesses are, that began the Story, and say these things against me. And my Lord, for those Depositions of the seventy thousand Men, and the Monies that are Collected of the Clergy in *Ireland*, they cannot be true, for they are a poor Clergy that have no Revenue nor Land; They live as the Presbyterians do here, there is not a Priest in all *Ireland*, that hath certainly or

uncertainly

uncertainly above threescore Pounds a Year, and that I should Collect of them forty Shillings a piece, for the raising of an Army, or for the Landing of the *French* at *Carlingford*; if it had been brought before a Jury in *Ireland*, it would have been thought a meer Romance. If they had accused me of a *Premunire* for the exercise of my Episcopal Function, perhaps they had said some thing that might have been believed, but my Lord, as I am a dying Man, and hope for Salvation by my Lord and Savior, I am not guilty of one point of Treason they have sworn against me, no more than the Child that was born, but yesterday. I have an Attestation under my Lord of *Essex's* hand concerning my good Behavior in *Ireland*, and not only from him, but from my Lord *Berkly*, who was also Governor there, which the Kings Attorney saw; But here I was brought, here I was tryed, and having not time to bring my Witnesses, I could not prove my Innocency, as otherwise I might. So that, if there be any Case in the world that deserves Compassion, surely my Case does; and 'tis such a rare Case, as I believe you will not find two of them in Print, that one Arraigned in *Ireland*, should be tryed here afterwards for the same Fact. My Lord, if there be any thing in the world that deserves pity, this does, for I can say, as I hope for Mercy, I was never Guilty of any one point they have sworn against me, and if my Petition for time had been granted, I could have shewn how all was prepenſe Malice against me, and have produced all Circumstances that could make out the Innocency of a Person. But not having had time, and being Tryed, I am at your Mercy.

*L. C. J.* Well, you have nothing further to say in Bar of Judgment, you have said all you can?

*Plunket.* I have nothing further to say, but what I have said.

*Then Proclamation was made for silence, while Judgment was passing upon the Prisoner.*

*L. C. J.* Look you Mr. *Plunket*, You have been here indicted of a very great and hainous Crime, the greatest and most hainous of all Crimes, and that is, High-Treason; and truly yours is a Treason of the highest Nature, 'tis a Treason in truth against God and your King, and the Countrey where you lived. You have done as much as you could to dishonor God in this Case; for the bottom of your Treason was, your setting up your false Religion, than which, there is not any thing more displeasing to God, or more pernicious to Mankind in the world. A Religion that is ten times worse than all the heathenish Superstitions, the most dishonorable and derogatory to God and his Glory of all Religions or pretended Religions whatsoever, for it undertakes to dispense with Gods Laws, and to pardon the breach of them. So that certainly a greater Crime there cannot be committed against God, than for a man to endeavour the Propagation of that Religion; but you, to effect this, have designed the Death of your lawful Prince and King. And then your design of Blood in the Kingdom where you lived, to set all together by the Ears, to destroy poor Innocent People, to prostitute their Lives and Liberties, and all that is dear to them, to the Tyranny of  
of

of *Rome*, and *France*; and that by introducing a French Army. What greater Evil can be designed by any man, I mention these things, because they have all been fully proved against you; and that you may take notice, and repent of them, and make your Peace with God, by a particular Application for Mercy for all these Faults; For it seems to me, that against God, your Prince, and fellow Subjects, you have behaved your self very ill, designing very great Evil to all these; and now it hath pleased God to bring you to Judgment.

I must tell you, peradventure what you urge for your self might introduce Pity, if it were to be believed, that is, that you are Innocent, and had Witnesses to prove it, but we cannot suppose any man Innocent, that hath had a Legal and a Fair Tryal, and a Tryal with as much Candor to you, as your Case could bear, or as perhaps any man in such a Case ever had. You had time upon your Request to send for your Witnesses, to help you in your Defence, and to have proved your Innocence, if you could have done it; Time long enough to your own Content, you your self thought it so, at the time it was given. To give a Prisoner under your Circumstances, five or six weeks time to send for Witnesses, is not usual, we could have put you upon a present Defence, and hurried you out of the World by a suddain Tryal, if we had had any Design against you; but we go on in a fair way, and with legal Proceedings, and with as much Respect to you, as in such a Case could be used, for we gave you all the fair Hearing and Liberty that you desired to have.

Look you, as to what you urge, that your Trial was in this Kingdom, whereas your Offence was in another, that is a thing that do's not become you by any means to object; for you have had a Tryal here by honest Persons, and that according to the Laws which obtain in this Kingdom, and that too of *Ireland*, which is by a Statute not made on purpose to bring you into a Snare, but an antient Statute, and not without Presidents of its having been put in Execution before your time. For your own Country will afford you several Presidents in this Case, as *O'Rourke*, and several others that have been Arraigned and Condemned for Treason done there. So that you have no reason to except against the legality of your Tryal. You say, now you have Witnesses that could prove all this Matter, why that lyes in the Mouth of any Man that is condemned to say; but pray consider with your self, what Regard ought to be given to this. We cannot help it, if your Witnesses don't come, you may remember they wanted not Time nor Opportunity to come over, but you told us they would not come unless they had a Pasleport.

*Plunkett*. My Lord, they got a Pass to come over afterwards, and so in eight Days they came hither.

*L. C. J.* You might have provided your self, if they wanted such a thing. In the first place, no body is bound to give it them; much less could you expect it for them without asking.

*Plunkett*. I could not get the Copies of the Records neither by any means, unless I had an Order from the Council, and they would not give that Order, unless your Lordship appointed it.

*L. C. J.* We cannot tell that, you should have petitioned in time.



*Plunkett.* How could any one foresee, unless he was God Almighty, that they would deny it, or that he could not get out a Copy of a Record, paying for it, without a Petition. All the Friends I had, told me upon Motion there, it might be had, but here I have it under the Lieutenants and Councils hands, that they would give no Copy of Records without Order from hence, which before I could know it, it was impossible for me to have them ready against my Tryal.

*L. C. J.* Look you Sir, I do speak this to you, to shew you that those Objections, which you seem to make against your Tryal, have no weight at all, but in this Case it is not the Jury that are so material as the Witnesses themselves. I appeal to all that heard your Tryal, if they could so much as doubt but that you were Guilty of what you were charged with. For consider, here were Persons that were of your own Religion, the most of them Priests, I think almost all of them in Orders.

*Plunkett.* There were two Fryers, and a Priest whom I have endeavoured to correct this seven Years, and they were Renegadoes from our Religion, and declared Apostates.

*L. C. J.* Look you Sir, they gave an Evidence very home to your matter; you had Liberty to examine them, and they gave you a rational Account of any thing you ask'd. Let me but put you in mind of one thing. You made Exceptions to one's Evidence, (and indeed that was very much of your Exception to all) why he did not reveal this in all that time: Truly he told you he was of your mind, till he went into *France*, and saw what a Slavery and Mischief you endeavoured to introduce upon his and your own Countrymen, and this his Spirit rose against, to see what a Condition *Ireland* was like to be brought into. And pray, did not he give you a full Answer to that Question?

*Plunkett.* I had sufficient Witnesses to prove he was an Apostate, and was chastised by me, and therefore had prepenesed Malice against me.

*L. C. J.* Therefore I have spoken this to the Satisfaction, I hope, of your self and all that hear it. I do now wish you to consider, you are near your end. It seems you have lived in a false Religion hitherto; it is not too late at any time to repent, I wish you may have the Grace to do so; In the mean time there is no room for us here, to grant you any kind of Mercy, tho' Ple tell you, we are inclined to pity all Malefactors: Who ever have done evil, we are inclined to pity them, and wish heartily that they may repent, as we do, that you may, of what you have done. But all we can do now, is to say, what the Law saies, and that is to pass Judgment upon you.

*Plunkett.* May it please your Lordship to give me Leave to speak one Word. If I were a Man that had no care of my Conscience in this matter, and did not think of God Almighty, or Conscience, or Heaven, or Hell, I might have saved my Life; For I was offered it by divers People here, so I would but Confess my own Guilt, and Accuse others. But my Lord, I had rather dye ten thousand deaths, than wrongfully accuse any body. And the time will come when your Lordship will see what these Witnesses are, that have come in against me. I do assure your Lordship, if I were a man that had not good Principles, I might

might easily have saved my own Life, But I had rather dye ten thousand Deaths, than wrongfully to take away one farthing of any man's Goods, one day of his Liberty, or one minute of his Life.

*L. C. F.* I am sorry to see you persist in the Principles of that Religion.

*Plunkett.* They are those Principles, that even God Almighty cannot dispence with all.

*L. C. F.* Well, however the Judgment which we give you, is that which the Law saies and speaks. And therefore you must goe from hence, to the place from whence you came, that is to *Newgate*, and from thence you shall be drawn through the City of *London*, to *Tyburne*; there you shall be hanged by the Neck, but cut down before you are dead, your Bowels shall be taken out, and burnt before your Face, your Head shall be cut off, and your Body be divided into four Quarters, to be disposed of as his Majesty pleases. And I pray God to have Mercy upon your Soul.

*Plunkett.* My Lord, I hope I may have this Favor, of Leave, for a Servant and some few Friends that I have, to come at me.

*L. C. F.* I think you may have Liberty for any Servant to come to you, I know nothing to the Contrary.

*Plunkett.* And some Friends that I have in Town.

*L. C. F.* But I would advise you to have some Minister to come to you, some Protestant Minister.

*Plunkett.* My Lord, if you please, there are some in Prison, that never were indicted, or Accused of any Crime, and they will do my Business very well; for they will do it according to the Rites of our own Church, which is the antient Usage, they cannot do better, and I would not alter it now.

*L. C. F.* Mr. *Richardson*, you may let his Servant come to him, and any Friend in your Presence, to see there be no Evil done, nor any Contrivances that may hereafter have an Influence upon Affairs.

Mr. *Fust. Jones.* Be you present, or some body.

*Plunkett.* My Servant I hope may come, without his being present.

*L. C. F.* Yes, yes, his Servant may be with him alone. Well Sir, we wish better to you, than you do to your self.

*Plunkett.* God Almighty blefs your Lordship. And now my Lord, as I am a dead Man to this World, and as I hope for Mercy in the other World, I was never Guilty of any of the Treasons laid to my Charge, as you will hear in time; and my Character you may receive from my Lord Chancellor of *Ireland*, my Lord *Berkley*, my Lord *Essex*, and the Duke of *Ormond*.

*Then the Keeper took away his Prisoner, and upon Friday the first of July, he was executed according to the Sentence.*

F I N I S.

night early, have lived my own life, but I had rather give up this  
 land & desire, than wrongfully to take away one landing of any man's  
 God's one day of his liberty, or one minute of his life.  
 N. C. I am sorry to see you perishing in the Principles of that Religion.  
 P. What? They are those Principles, that even God Almighty can  
 not dispense with all.  
 N. C. Well, however the thing is not which we give you, is that  
 which the Law takes an pleasure. And therefore you must goe from  
 hence, to the place from whence you came; that is to Aylesbury, and  
 from thence you shall be sent through the City of London, to  
 Newgate; there you must stand till the next day, and then before your  
 you a choice, your body shall be taken one, and being before your  
 feet, your head shall be cut off, and your body be divided into four  
 quarters, to be distributed among the poor. And I pray God to

have them, now you have them.

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